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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

No. 108.

THE CITY OF NEW ORLEANS, THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS, ET AL., APPELLANTS,

vs.

THE CITIZENS' BANK OF LOUISIANA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

FILED MAY 26, 1894.

(15,596.)

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a UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana, New Orleans Division.

THE CITIZENS' BANK OF LOUISIANA, Appellee,
versus
THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS *et als.*, Appellants.
No. 12112. In Equity.

Messrs. Henry C. Miller and Branch K. Miller, for Citizens' Bank of Louisiana, appellee.

Messrs. Cunningham & Lyons, for the various tax-collectors for the parish of Orleans and other parishes of the State of Louisiana and The Board of Assessors for the Parish of Orleans, appellants.

Messrs. E. A. O'Sullivan, city attorney, and Henry Renshaw, assistant city attorney, for The City of New Orleans, appellants.

Appeal from the circuit court of the United States, eastern district of Louisiana, New Orleans division, to the Supreme Court of the United States, at the city of Washington, D. C., returnable within thirty days from the 18th day of April, A. D. 1894.

Transcript of Appeal.

1 THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS *et als.*
No. 12112. In Equity.

Bill.

Filed August 17, 1892.

To the honorable the circuit court of the United States in and for the fifth circuit and district of Louisiana:

The Citizens' Bank of Louisiana, a banking corporation created by the legislature of Louisiana, doing business in New Orleans, there domiciled, and a citizen of Louisiana, exhibits this its bill of complaint in the suit or cause of action arising under the Constitution of the United States against James A. Renshaw, Jeremiah M. Gleason, Joseph Demoruelle, Louis A. Richards, John Reaney, David Zable, Edward Thompson, Jr., constituting the board of assessors for the parish of Orleans, and against the City of New Orleans, C. H. Parker, Henry Guillotte, H. D. Monnier, and W. T. Patton, the last four named being respectively State tax-collectors for the 1st, 2nd, 3rd, and 4th districts; and thereupon your orator shows and avers—

That your orator was incorporated in 1833 in aid of the policy of the State to provide for the development of the planting interest by creating banks with capital obtained abroad, by negotiating the bonds of the State, and to be loaned in the mode hereinafter stated

to planters contemplated to become stockholders in such banks, and in consideration of the organization of your orator for this public purpose and of the credit with orator to be enjoyed by the
2 State and of its participation in the profits anticipated from this system of banking, all secured to the State in the charter, your orator was incorporated to do a banking business and fulfill the object of the charter, and the State conferred upon it all the privileges and immunities essential to the corporate purpose, including the exemption of all the capital and property of orator from all taxation, State, parish, or municipal.

That the charter fixed the capital of orator at twelve million dollars in shares of one hundred dollars each, to be secured by mortgages on the property of the stockholders, and the funds procured by the negotiation of the bonds of the State were to be loaned to the stockholders on the pledge only of their stock, not paid for, but secured by said mortgages, and the loans were payable in installments at intervals running through forty-nine years; that the stock mortgages had no term prescribed for their payment, and it was not until 1873, forty years after the date of the charter, that the legislature authorized annual calls on the stockholders of two dollars per share, and these stock subscription debts and mortgages to be realized in the protracted method and in the long period indicated by the act No. 45 of 1873, during which the existence of the bank under its charter was necessarily implied and recognized by the original charter as well as by the act of 1873, were to be enforced by the bank for the benefit of the bondholders to whom the mortgages were assigned as the provision for payment of the bonds, and the charter declared that this pledge of the mortgages should be "perpetual" until the full payment of the bonds in principal and interest, and the bank under its charter was to enforce this perpetual pledge.

That this charter, granted under the constitution of 1812, was subject by that instrument to no limitation whatever as to
3 time or prolongation; that from the nature of the functions of the bank in respect to the bond debt and the forty-nine years' loans to the stockholders of the money procured from the bondholders and enforcing for the payment of the bonds stock mortgages to be "perpetual" and to be realized only by the methods already stated and other provisions of the charter, and especially the large pecuniary interest of the State in maintaining the existence of the bank to accomplish the payment of the bonds, it is manifest that, while fifty-one years was named in the charter, it was clearly the legislative purpose that the existence of the bank under its charter carried the right of prolongation for the interest of the State itself, the bondholders, and the bank, all concerned in the performance of the functions imposed on the bank, and this right of prolongation beyond the said fifty-one years is thus to be deemed affirmed by the charter itself of 1833 and 1836, and your orator shows that the legislation of the State has been at all times in accordance with the character of this charter, as herein set forth, and in addition to the provisions already referred to of the charter itself,

and in the same connection your orator refers to the legislation of 1842, prohibiting the bank from going into liquidation, and the legislation of 1880, seven years after the act of 1873, authorizing the long annual calls on shareholders, directing the bank to make compromises with the shareholders, and, finally, to the legislation of 1874, enacted to protect the State against the bond debt and to accomplish the object of the charter of 1833 and 1835, by which the legislature enacted that the charter of the Citizens' bank should be prolonged to 1911, thus continuing to that date the charter, with all its immunities, including said exemption from taxation, the preamble and first section of which act, referring to the pro-
4 longation of the charter, is herewith incorporated, to wit:

"Whereas, by reason of the great loss suffered by the agricultural interest of the State in consequence of the late war, it would be ruinous for the stockholders to pay within the next thirteen years, before the limitation of the charter of the Citizens' Bank of Louisiana, the amount of arreared installments and interest due by them, as well as the balance of their indebtedness; and, whereas, the sacrifice of the lands mortgaged for the payment of the State bonds issued in favor of the bank would endanger the security of the State; and whereas it is the interest of the State that a prolongation of the charter of the Citizens' Bank of Louisiana be allowed, so as to enable said institution to collect the debts due by the stockholders and thereby facilitate the payment of the State bonds;

SECTION 1. Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened, That the provisions of the thirtieth section of the act entitled An act to incorporate the Citizens' Bank of Louisiana, approved April 1, 1833, which reads as follows: 'And the charter shall continue for and during the space of fifty-one years from the passage thereof,' be amended and re-enacted as follows: 'That the charter of the Citizens' Bank of Louisiana shall continue for and during the space of twenty-five years from and after the time fixed for its liquidation by the said charter, and shall expire on the thirtieth of January, 1911.'"

And to all of which acts incorporating the bank and others, to wit, the act of the 1st of April, 1833, incorporating the Citizens' bank, the amendatory act of the 30th of January, 1836, the act No. 98 of 1842, the act No. 45 of 1873, and the act No. 40 of 1874, special reference is made, and your orator prays that the same
5 be taken as a part of this bill.

That this charter of the Citizens' bank, with its stipulations in favor of the State and with the power of prolongation as stated, was accepted by the bank, and on the faith of its provisions, including said exemption from taxation of the bank, its capital and property, twelve millions of dollars were subscribed to the capital stock of the bank, and in the same faith the bank has acquired and now holds property necessary for its purposes and acquired in the course of its business of value greater than five thousand dollars; that with the same reliance on said charter the bonds of the State

to the amount of seven millions of dollars were negotiated abroad and all the proceeds of said bonds were loaned by the bank on the security of the stock mortgages to its shareholders, mainly planters, and applied to promote the planting interest as proposed by the charter.

That the act of 1833 provided for the issue of the bonds of the bank to raise its capital, but the act failed, and it was under the act of 1836 that the State bonds were negotiated and the money of the bondholders to the large amount stated was obtained on the faith of that act of 1836, which explicitly repeated the exemption from taxation of the bank and its capital and property, and pledged to the bondholders the instrumentality of the bank to enforce for their benefit the aforesaid stock mortgages until the said bonds in their entirety should be fully paid in principal and interest.

And further your orator shows in 1833, when the finalcial reverses preceding that year had led to the default of the bank in paying interest on the bonds and to the forfeiture of its charter, the said bond debt then being upwards of six millions of dollars, the legislature, realizing and in the view of guarding against the
6 consequent danger of loss to the State, invited and authorized the furnishing of one million of dollars fresh capital for the Citizens' bank, and the capital was obtained on the faith of the State restoring the charter with all its immunities, including the aforesaid exemption evidenced by the acts of the legislature No. 141, to all of which reference is also made.

That of the aforesaid bonds of the State upwards of four millions of dollars are still extant, unpaid, in the hands of holders for value, and that the aforesaid stock mortgages not yet realized and other assets pledged for the charter and for the bond debt to be administered, realized, and applied by the bank to that debt amounts to upwards of five hundred thousand dollars.

That articles 203, 234, 237 of the constitution of Louisiana of 1879 declares that there shall be no exemption from taxation save of church, school property, and of capital employed in manufactures of a certain class and other enumerated kinds of property, and that no corporation shall engage in any business except that specified in its charter or hold real estate longer than ten years, and that no charter of any corporation shall be altered or amended except subject to the provisions of said constitution; and in the year 1880, the aforesaid bond indebtedness of the State then subsisting to a large amount—say, upwards of four million of dollars—the State, by the act No. 79 of 1880, in its own interest and for its protection against said indebtedness, authorized compromises with the mortgage stockholders of the bank in order to realize from said compromises the means to pay said indebtedness of the State, and said act undertook to require your orator to accept said act under the conditions of articles 234 and 237 of the State constitution, and said acceptance was given in order to carry into effect said compromises;
7 and your orator further shows that on the 9th of July, 1890, the legislature of Louisiana, by act No. 106, directed the assessment and taxation of property and the shares of stock of corpo-

rations, and to effect said object created a board of assessors with power to call on banks and other corporations for returns of their property and the shares of their capital stock and the list of their shareholders, and directed said board to assess said property and shares for taxation by the city and State, and subsequently the council of the city of New Orleans, by ordinance No. 5846, directed the levy of taxes for the city of New Orleans on property and shares of stock of corporations.

And now your orator shows that its domicil is in the first tax-collection district of this city and it is the owner of property in all the tax-collection districts of this city created by the act No. 85 of 1888; that under color of the said articles of the State constitution and of said act of 1880 and of said act of 1890 and of said ordinance of the council the board of assessors for the parish of Orleans now advance the pretension that your orator is no longer entitled to the aforesaid exemption from taxation conferred by its charter and recognized by the legislation of the State, and, as will be shown, also by the courts of the State, but said board claim that said exemption has been taken from your orator by said constitution of 1879 and acts of the legislature aforesaid, and the said board of assessors avow their purpose and threaten and are about to assess the capital and property and shares of stock of your orator for taxation by the city of New Orleans and State for the years 1891, 1892, 1890, and 1889, and said taxes thus proposed to be assessed exceed in amount six thousand dollars; and to the end of making said assessment said board has demanded of your orator returns of its capital, its property, and of the shares
8 of its capital stock and a list of its shareholders, and unless prevented by process of said court said board will make said assessment for taxation — record the same in the mortgage office, thus casting a cloud upon the business and property and the shares of the capital stock aforesaid, and will thereby seriously depreciate the value thereof, and said city and State will enforce payment of the taxes based on said assessment and seize and sell the property of your orator and the shares of its stock to compel payment of said illegal taxes based on said assessment; all to the great prejudice, damage, and injury of your orator, and said damage and injury will largely exceed in amount six thousand dollars.

Your orator, further complaining, shows that both before and since the constitution of 1879 and the enactment of the laws aforesaid, under color of which said board of assessors now pretend to find its warrant for the aforesaid assessment, that the aforesaid exemption of taxation conferred by your orator's charter has been of constant recognition by the State and city, and the present attempt to make the assessment for the three years prior to the current year admits to that extent the recognition hitherto by all of the aforesaid exemption; and, further complaining, your orator shows that on the 25th June, 1878, suit was instituted in the civil district court for the parish of Orleans to enforce the payment of taxes due the city and State based on the assessment of the property and shares of stock of your orator, made and attempted to be en-

forced at that time, and orator resisted the suit on the ground of the exemption from taxation conferred by its charter; that on that issue it was adjudged by the supreme court of the State, as well as by the district court, that said assessments were void, and that orator was not subject to taxation on its capital, property, or
9 shares of stock, as more fully appears by said suit and the judgment of the supreme court therein rendered on the 9th of July, 1880, reported in the 32nd Louisiana Annual, p. 239; and, further, your orator shows that in two suits brought subsequently by your orator in the civil district court for the parish of Orleans to prohibit the assessment and taxation by the State and city of orator's capital, property, and shares of stock, the aforesaid exemption was again sustained and said assessment and taxation decreed void and enjoined and prohibited, one of said suits having been brought on 5th Nov'r, 1884, and the other on 21st March, 1887, and decided, respectively, on *the* Nov'r 5th, 1886, and 27th April, 1887, all of which appears by copies of said decrees herein filed and to which reference is made; and your orator shows the present attempt to make assessments against your orator and against its shareholders is in defiance of its charter and of the decisions of the courts of Louisiana, and your orator avers and pleads said final decrees of the supreme court and district court as *res judicata* on the issue herein, and avers said decisions conclude the said board and the city of New Orleans and the State from making any assessment of orator's capital, property, or shares of stock or enforcing the collection of any taxes based on such assessment.

And, further complaining, your orator shows that the aforesaid legislative act No. 40 of 1874, continuing the charter of your orator, with all its privileges and immunities, including said exemption until 1911, was a competent and necessary exercise of legislative power, in harmony with and fulfillment of the object of the charter itself, granted in 1833; has stood on the statute book for nearly twenty years unassailed and in full force and is binding on the State and city of New Orleans, and especially upon their executive officers, who, of their own volition, without any judicial warrant, propose now to disregard the charter of your orator and the
10 said act of 1874.

And your orator shows that its charter and all immunities and privileges thereof, including the aforesaid exemption from taxation until 1911 of the capital and property and shares of stock of your orator, constitutes a contract between the State stipulating for itself and for the city and your orator and its shareholders, and said contract is protected by the Constitution of the United States from any change or impairment, whether attempted in the form of provisions inserted in the State constitution or by legislative acts or by ordinances of the council of New Orleans, and each and all of said articles 203, 234, and 237, and any others that may be claimed to authorize the aforesaid assessments against your orator and said acts of the legislature of Louisiana No. 79 of 1880, No. 106 of 1890, and any other legislative acts that may be relied on to countenance the action of said board of assessors, and said ordinance of the

council of the city of New Orleans approved Dec'r 14, 1891, No. 5846, in so far as they or any of them purport or tend to authorize the assessment and taxation of the capital or property or shares of stock of your orator, are each and all void and of no effect because violative of the and repugnant to the tenth section of article 1 of the Constitution of the United States, prohibiting all legislation impairing the obligation of contracts, and under this protection of the Constitution of the United States your orator is entitled to relief in this court to prevent the aforesaid unlawful assessment complained of in this bill of your orator's property, stock, and capital.

To the end, therefore, that said Board of Assessors for the Parish of Orleans may be enjoined and prohibited from making any assessment of the capital or property or shares of the capital stock of your orator, and from demanding or insisting upon any
11 returns by your orator of its capital, property, or stock or shares thereof or list of its shareholders, and that the City of New Orleans and the State tax-collectors of the 1st, 2d, 3d, 4th collection district- may be enjoined and prohibited from enforcing payment of any tax based on said assessment or from endeavoring to enforce the same in any manner, *and* may it please your honors to grant unto your orator the writ of injunction directed to said Board of Assessors and to said City of New Orleans and to said State tax-collectors, enjoining and prohibiting them from making or causing to be made said assessments, and from demanding or insisting on any returns of the capital stock or shares thereof or list of the shareholders of said stock, and from enforcing or attempting to enforce the payment of any taxes based on said assessments, and your orator prays that in the meantime and until the further order of this court a restraining order issue directed to said defendants, restraining them to the full extent and scope of the injunction herein prayed for, and to the end that that injunction may be decreed to be perpetual, and that the aforesaid articles of the constitution and laws and ordinance of the city council under color of which defendant *are* acting may be decreed to be null and void so far as they undertake to direct the assessment of the capital or property or shares of stock of your orator, and that the aforesaid exemption from taxation of said capital, property, and shares of stock may be recognized and adjudged to be valid to the full extent herein set forth:

May it please your honors to grant to your orator the writ of snbpœna directed to said Board of Assessors for the Parish of Orleans; The City of New Orleans; C. H. Parker, State tax-collector for the 1st collection district; Henry Guillotte, State tax-collector for the 2nd collection district; H. D. Monnier, State tax-
12 collector for the 3rd collection district, and W. T. Patton, State tax-collector for the 4th collection district, all defendants herein, commanding them to be and appear in this court on the day to be named in the process and to stand to and abide all decrees that may be rendered herein and for general relief.

(Signed) HENRY C. MILLER,
Solicitors for Compl't.

George W. Nott, the president of the Citizens' Bank of Louisiana, being duly sworn, deposes and says that all the facts stated in the foregoing bill of complaint to be upon his own knowledge are true, and those that are stated to be on the knowledge of others he believes to be true.

(Signed) G. W. NOTT, *Pres't.*

Sworn to and subscribed before me, notary at New Orleans, Louisiana, on this eighth day of August, A. D. eighteen hundred and ninety-two.

[SEAL.] (Signed) EDGAR GRIMA, *Not. Pub.*

Let this bill of complaint be filed, together with the exhibits accompanying the same, and let the defendant- show cause on the first Monday of November, A. D. 1892, why the injunction therein prayed for should not issue, and let a restraining order issue meanwhile and until the hearing and decision upon this application restraining the defendants from making any assessment, and from attempting to collect the same, of any tax upon the capital or property of the complainant acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April
13 1, 1833, and, further, meanwhile and until the hearing and decision upon this application restraining the defendants from all steps towards collecting any tax upon the shares of the capital stock of the complainant beyond the obtaining of the returns or lists of the shareholders requisite for the assessment of taxes upon the shares and beyond the assessment of the tax.

(Signed) EDWARD C. BILLINGS, *Judge.*

August 13, 1892.

Restraining Order, Issued to Board of Assessors, Parish of Orleans, City of New Orleans, and C. H. Parker, Henry Guillotte, H. D. Monnier, and W. T. Patton, State Tax-collectors, etc., August 17, 1892.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK OF LA.
vs.
BOARD OF ASSESSORS, PARISH OF ORLEANS, & *als.* } No. 12112.

The President of the United States to the Board of Assessors, Parish of Orleans, City of New Orleans, and C. H. Parker, Henry Guillotte, H. D. Monnier, and W. T. Patton, State tax-collectors for the 1st, 2d, 3rd, and 4th districts respectively, Greeting:

Whereas it has been represented unto us in our said circuit court, on the part of the Citizens' Bank of Louisiana, in a bill in
14 equity lately exhibited against you touching certain matters and things therein set forth; and whereas the Honorable

Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you are required to show cause on the 1st Monday of November, 1892, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you immediately and forthwith and during the pendency of said motion for an injunction to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said Board of Assessors, City of New Orleans, C. H. Parker, Henry Guillotte, H. D. Monnier, and W. T. Patton, State tax-collectors for the 1st, 2nd, 3rd, and 4th districts respectively, your agents, attorneys, and servants, and each of you, are hereby commanded and strictly enjoined, under the penalty of the law, that you and each of you absolutely refrain and desist from making any assessment, and from attempting to collect the same, of any tax upon the capital or property of the complainant acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April 1, 1833, and, further, from all steps towards collecting any tax upon the shares of the capital stock of the complainant beyond the obtaining of the returns or list of the shareholders requisite for the assessment of taxes upon the shares and beyond the assessment of the tax.

And that you, the said defendants above named, your agents, attorneys, and servants, and each of you, remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 17 day of August, 15 in the year of our Lord one thousand eight hundred and ninety-two.

[SEAL.] (Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Aug. 18th, 1892, and on the same day I served a true copy of the within restraining order on the following-named persons, to wit:

On the Board of Assessors, parish of Orleans, through Jas. H. Renshaw, *personally, shaw*, president, personally;

On C. H. Parker, tax-collector 1st dist., personally;
" H. D. Monnier, " 3rd " "
" W. T. Patton, " 4th " "
" Henry Guillotte, " 2nd " through H. Raboin, his deputy;

On the City of New Orleans by handing same to Hon. Jno. Fitzpatrick, mayor thereof, in person, at his office, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

16 *Subpœna in Chancery, Issued to C. H. Parker, Tax-collector, August* 23, 1892.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon C. H. Parker, State tax-collector for the 1st collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said C. H. Parker, State tax-collector, & *als.* are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk.*

17 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92, and on the same day I served a true copy of the within subpœna in chancery on C. H. Parker, State tax-collector for 1st collection district, by handing the same to him in person, at his office, in the city of New Orleans, La., and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

18 *Subpœna in Chancery, Issued to Henry Guillotte, Tax-collector, August* 26, 1892.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon Henry Guillotte, State tax-collector for the 2d collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of

America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said Henry Guillotte, State tax-collector, *et als.* are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk.*

19 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92, and on the same day I served a true copy of the within subpœna in chancery on H'y Guillotte, State tax-collector 2d collection district, by leaving the same at his office, in the hands of H. Raboin, deputy tax-collector, who informed me that H'y Guillotte was absent from the city at the time of said service.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

20 *Subpœna in Chancery, Issued to H. D. Monnier, Tax-collector, August* 23, 1892.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon H. D. Monnier, State tax-collector for the 3rd collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said H. D. Monnier, State tax-collector, and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

21 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92, and on the same day I served a true copy of the within subpœna in chancery on H. D. Monnier, State tax-collector for the 3rd collection district, by handing the same to him in person, at his office, in the city of New Orleans, La., and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

22 *Subpœna in Chancery, Issued to W. T. Patton, Tax-collector, August* 23, 1892.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon W. T. Patton, State tax-collector for the 4th collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said W. T. Patton, State tax-collector, and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

The defendant is hereby notified that he is required to enter his

appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

23 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92, and on the same day I served copy hereof on the Hon. W. T. Patton, State tax-collector for the 4th collection district, by handing same to him in person, in New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

24 *Subpœna in Chancery, Issued to the City of New Orleans August 23, 1892.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon the City of New Orleans to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against it and others, wherein Citizens' Bank is complainant and said City of New Orleans and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

The defendant is hereby notified that it is required to enter its appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*,
By H. J. CARTER, *D'y Clerk*.

25 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92, and on the same day I served copy hereof on the City of New Orleans

by handing same to Hon. John Fitzpatrick, mayor of said city, in person, in New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

26 *Subpœna in Chancery, Issued to the Board of Assessors August 23, 1892.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon the Board of Assessors, through James A. Renshaw, president, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of October, 1892, then and there to answer a bill in chancery filed against it and others, wherein The Citizens' Bank is complainant and said Board of Assessors *et als.* are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 23 [SEAL.] day of August, in the year of our Lord one thousand eight hundred and ninety-two, and the 117th year of American Independence.

(Signed) E. R. HUNT, *Clerk,*
By H. J. CARTER, *D'y Clerk.*

The defendant is hereby notified that it is required to enter its appearance in the clerk's office of the United States circuit court on or before the first Monday of October, 1892; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk,*
By H. J. CARTER, *D'y Clerk.*

27 *Marshal's Return.*

Received by U. S. marshal, New Orleans, La., Aug. 24, '92; and on the same day I served copy hereof on the Board of Assessors by handing same to Honl. James A. Renshaw, president of said board, in person, in New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
D'y U. S. Marshal.

28 *Appearance of City of New Orleans and Board of Assessors.*

Extract from the Chancery Order Book.

MONDAY, *October* 3, 1892.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

Now come The City of New Orleans and The Board of Assessors, defendants, through E. A. O'Sullivan, city attorney, and Henry Renshaw, ass't city attorney, and enter their appearance to the bill of complaint herein.

Appearance of State Tax-collectors.

Extract from the Chancery Order Book.

TUESDAY, *October* 11, 1892.

CITIZENS' BANK OF N. O.
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

Now come defendants, State tax-collectors of the 1st, 2nd, 3rd, 4th, 5th, and 6th and 7th districts, parish of Orleans, through R. Lyons, their solicitor, and enter their appearance to the complainant's bill of complaint herein.

Return to Rule for Injunction of State Tax-collectors.

Filed Nov. 7, 1892.

Circuit Court of the United States, Eastern District of Louisiana.

29 CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et al.* } No. 12112. In Equity.

Now comes C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, and for cause why the injunction *pendente lite* should not issue against these defendants herein respectfully show:

1. That this honorable court is without jurisdiction to try this case or to issue the writ of injunction herein *pendente lite* or to take any proceeding herein, because it is a controversy arising wholly between citizens of the same State, inasmuch as the Citizens' Bank of Louisiana and your appearers herein are citizens of the State of Louisiana, and there is no matter or thing set up in the bill of complaint herein or in the rule of injunction *pendente lite* which gives this honorable court jurisdiction, and for further cause these appearers show that The Citizens' Bank of Louisiana, plaintiff herein, was organized by the act of legislature in the State of Louisiana, number — of the sessions act of 1833, to extend for a period of 51 years.

Defendants further aver that the said charter would have expired

in 1884, but that by act number 40 of 1874 the charter was extended to 1911.

Defendants aver the extension granted by the act of 1874 conferred no exemption from taxation after the expiration of the original charter, as the constitution of 1868 withheld from the legislature the power of granting exemptions from taxation, except in the cases of property actually used for school, church, and charitable purposes.

Defendants further aver that in the year 1879 the State of Louisiana adopted a constitution which went into effect Jan. 1st, 1880; that the 234th article of the constitution provides that the
30 General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter, or amend the same, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

The appearers show in 1880 the legislature passed an act known as act 79 of the year 1880, by which the power of the said Citizens' bank was extended, and that they were allowed to make compromises with the mortgage stockholders of said bank, providing the bondholders and the directors of the bank appointed on behalf of the State of Louisiana consented to the same.

Now, appearers show that section 4 of said act provided that this act shall not be binding or confer any right upon the bank unless accepted within twelve months from the date of this act and under the conditions prescribed in article- 234 and 237 of the constitution, such acceptance to be manifested by the bank in writing and filed in the office of the secretary of state.

That the acceptance required by said section 4 was given by the said Citizens' bank and filed in the office of the secretary of state, as admitted by complainant in its bill herein.

Wherefore appearers pray that the restraining order issued herein be rescinded, and that the rule upon them be dismissed with costs.

(Signed) R. LYONS, *Solicitor.*

C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, being duly sworn, depose and say that they have read the foregoing return to the rule of injunction herein, and that the allegations set forth therein as of their own knowledge are true and correct,
31 and those set forth as to the best of their knowledge and belief are true to the best of their knowledge and belief.

Sworn to and subscribed before me this 7th day of Nov., A. D. 1892.

(Signed) H. GUILLOTTE.
HENRY D. MONIER.
W. T. PATTON.

(Signed) E. R. HUNT,
U. S. Commissioner.

Order: Rule for Injunction Continued.

Extract from the Minute Book, November Term, 1892.

NEW ORLEANS, MONDAY, *November 7th*, 1892.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

By consent of counsel for the parties herein, with leave of court, the rule for an injunction is continued to Saturday, November 12, 1892.

Answer of the Board of Assessors and of the City of New Orleans.

Filed Nov. 7, 1892.

United States Circuit Court, Eastern District of Louisiana.

32 CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS *et als.* } No. 12112.

The joint and several answer of The Board of Assessors for the Parish of Orleans and of The City of New Orleans, two of the defendants to the bill of complaint of The Citizens' Bank of Louisiana, plaintiff.

These defendants, respectively, now and at all times hereafter saving to themselves all and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bill contained, for answer thereto or to so much thereof as these defendants are advised it is material or necessary for them to make answer to, severally answering, say that in 1833 the legislature of the State of Louisiana passed the act to incorporate the Citizens' Bank of Louisiana for the purposes set forth in said act; that according to said act (section 1) the capital of said bank was to be twelve millions of dollars, to be procured by means of a loan or loans to be made by the directors of said bank, and (section 4) to facilitate the negotiation or obtaining of said loan the directors were authorized and empowered to issue the bonds of the bank, and for the payment of these bonds the mortgages given by the stockholders under said act (section 3) were to be pledged to the holders of said bonds; that the said corporation was invested with the rights and privileges usually accorded to banks (section 10); that the stockholders were entitled to certain credit upon pledge of their stock (section 11); that the bank was empowered to advance money to individuals upon certain

conditions (sections 12 and 13), and that the State, upon
33 certain conditions (section 11), was to enjoy a credit of at least five hundred thousand dollars.

That by the said statute the said corporation was authorized to subscribe to the stock of the Lake Borgne Navigation Company, and it was also provided (section 14) that the directors of said corporation might succeed to and become vested with all the powers, rights, and privileges granted to the said navigation company, and the corporation became subject to all the clauses, conditions, stipulations, and limitations whatsoever contained in the charter of said company.

That said corporation was also empowered (section 16) to establish and keep a railroad to communicate from beyond the line of the Pontchartrain railroad and any point or points between the River Mississippi, the Gentilly and Chef Menteur road, and extending to and in the parish of St. Bernard.

That it was further provided by said act (section 30) that at the expiration of the charter of said corporation, if the corporation should have acquired the rights, privileges, and advantages mentioned in the 14th section of the act, viz., as successor of the Lake Borgne Navigation Company, and should have had quiet enjoyment thereof, it should be the duty of said corporation to deliver to the State all the canals and appurtenances and dependencies mentioned in the 15 and 18th sections of the act of incorporation of said company, and also all roads that may have been made, as well as all the machinery, cars for transportation, and all other dependencies thereon, rights of tolls, and every other privilege attached thereto, which should then become the full property of the State; and it was enacted by said statute that, in consideration of said cession or in lieu thereof the bonus mentioned in the fifteenth section of said act incorporating the Citizens' Bank of Louisiana,
the said corporation should during its existence be exempt
34 in its capital and property acquired under said act from all taxes due to the State or to any parish or corporation created by law of this State, and the charter of said corporation was to continue for and during the space of fifty-one years from the passage of said act.

And these defendants pray that said act may be taken as part of this answer.

Further answering, these defendants show that in 1836 the legislature of the State of Louisiana passed an act entitled "An act amendatory and supplementary to the several acts relative to the 'Act to incorporate the Citizens' Bank of Louisiana,'" whereby, to facilitate the bank in negotiating the loan of twelve millions of dollars authorized by the act of incorporation of April, 1833, the faith of the State was pledged for the security of said sum or such part thereof as might be required by the bank, and it was enacted as follows (section 3): "That for the guarantee of the bonds to be emitted by the State in favor of the Citizens' bank and of the interest thereof and for which the State pledges its faith all the securities granted by the act of incorporation of said bank, and specially by

the third and fourth sections of said act, to the holders of its bonds are hereby transferred to the State and the holders of the bonds which may be issued in virtue of this act;" that by section 7 of said act of 1836 the 14th section of the act to incorporate the Citizens' bank, authorizing subscription to the capital stock of the Lake Borgne Navigation Company, the fifteenth section of said act, fixing a penalty for not digging the canal therein described, and all the provision- in said act relative thereto were repealed.

That by section 4 of the act of 1836 the State was declared entitled to a certain interest in the profits of the bank, and the
35 capital of said bank was exempted from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter.

Further answering, these defendants show that they are informed and believe, and therefore aver, that the effect of this legislation was that whatever exemption may have been granted to the Citizens' Bank of Louisiana was, according to said act of 1836, applicable only to its capital and not all its property, and that such exemption ceased at the expiration of its charter, as originally stated, viz., in 1884, or fifty-one years after the passage of the act of incorporation, and these defendants pray that said act of 1836 may be taken as part of this answer.

Further answering, these defendants show that according to article 118 of the constitution of the State of Louisiana of 1868 all property was to be taxed in proportion to its value, to be ascertained as directed by law, although the General Assembly was given power to exempt from taxation property "actually used for church, school, or charitable purposes;" and these defendants are informed and believe, and therefore aver, that during the continuance of the said constitution the General Assembly, by virtue of said article 118, was without power to pass any act the effect of which would be to exempt the Citizens' Bank of Louisiana from taxation or to continue beyond 1884 the exemption granted said bank by the act of 1833, amended by the act of 1836, and that consequently act No. 40 of the General Assembly of Louisiana of 1874, enacting that the charter of the Citizens' Bank of Louisiana shall expire on the 30th of January, 1911, could and did have no other effect than to continue the bank's corporate existence beyond the original date of the expiration of its charter, subject to the constitution of 1868—
that is to say, the bank's corporate existence was continued
36 with unimpaired right to exemption up to the original date of the expiration of its charter, say in 1884, but that thereafter it became subject to taxation in accordance with the constitution of the State. Further answering, these defendants are informed and believe, and therefore aver, that any legislation by the General Assembly during the existence of said constitution of 1868 is controlled or to be construed according to the limitations of said constitution, and that referring to the legislation prior to 1868 and mentioned in complainant's bill the duration of the exemption from taxation granted to complainant is clearly and specifically stated in section 30 of the act of 1833, incorporating the bank to be fifty-one

years from the passage of the act, and that by the act of January 30th, 1836, above cited, the exemption is narrowed by being restricted to the capital of complainant.

Further answering, these defendants show that they do not know, and therefore cannot say, what amount was subscribed to the capital stock of the bank, nor to what extent property was acquired by the bank in the course of business, nor how far said property may be necessary (if at all) for the purposes of the bank, nor to what amount the bonds of the State may have been negotiated abroad, nor how negotiated, nor what may have been done with the proceeds of said bonds, and they leave the plaintiff to make such proof thereof as it may be able to produce.

Further answering, these defendants show that in 1852 the General Assembly of Louisiana passed act No. 141, entitled "An act for the relief of the Citizens' Bank of Louisiana," of which the preamble is as follows: "Whereas, the State of Louisiana is now responsible for bonds issued in favor of the Citizens' Bank of Louisiana, for a sum exceeding six millions of dollars, together with accruing
37 interest thereon, and whereas the present condition of said bank is such as to expose the State to loss from the inability of said bank to meet the payment of said bonds and interest, if the liquidation of the bank be continued on the system now established by law; and

Whereas, the managers appointed by the State for said bank have represented that the stockholders will be enabled to secure the State from the said risk of loss, if they be restored to the control and administration of the affairs of said bank, with the rights, privileges, and immunities possessed by said bank, at the date of the decree of forfeiture rendered against it in the first district court of New Orleans, now the fifth district court of New Orleans, on the eighteenth day of October, eighteen hundred and forty-two; Now therefore:"

That this was an act to restore upon the conditions mentioned in said statute the administration and conduct of the affairs of the bank to the stockholders in the same manner, with the same rights and privileges, to the same extent, and with the same restrictions as if said decree of forfeiture had never been rendered.

But according to the express language of the act the bank, upon the accomplishment of the conditions specified, was only to resume such limited rights and privileges as it enjoyed prior to the forfeiture of its charter, and that, as provided by the acts of 1833 and 1836, hereinbefore mentioned, the capital of the bank during the continuance of the bank's charter, which was to expire, say, in 1884, should be exempt from any tax laid by the State or by any parish or body politic under the authority of the State.

Further answering, these defendants show that thereafter, viz., in 1853, the General Assembly of Louisiana passed act No. 246, which is entitled An act to authorize the Citizens' Bank of Louisiana
38 to convert shares secured by mortgage into cash shares, and that by the 1st section of this act the board of directors to be elected under the act of 10th of March, 1852, entitled "An act for the relief of the Citizens' Bank of Louisiana," were empowered to raise

one million of dollars by obtaining the payment in cash of ten thousand out of the one hundred and forty-four thousand shares of the capital stock of the bank; and these defendants, further answering, show that article 121 of the constitution of the State of Louisiana of 1852 provided that the legislature shall have power to pass such laws as it may deem expedient for the relief or revival of the Citizens' Bank of Louisiana, and the acts already passed for the same purpose are ratified and confirmed, provided that the bank is subject to the restrictions contained in articles 119 and 120 of the said constitution, the said articles 119 and 120 referring to suspension of specie payments, and in case of insolvency of any bank or banking association to the preference to which bill-holders were to be entitled; and these defendants are informed and believe, and therefore aver, that neither by said articles 121 of the said constitution of 1852 nor by said act No. 141 of 1852 and said act No. 246 of 1853 was the limited exemption from taxation enjoyed by the bank under the acts of 1833 and 1836, as heretofore set forth, in any manner extended or enlarged, and defendants pray that said acts No. 141 of 1852 and No. 246 of 1853 may be taken as part of this answer.

Further answering, these defendants show that they do not know, and therefore cannot say, what amount of the bonds of the State are still extant unpaid in the hands of holders for value nor to what extent the said mortgages and other assets that may have been pledged for the bond debt are yet unrealized, and therefore leave the complainant to make such proof thereof as it shall be
39 able to produce.

Further answering, these defendants show that according to articles 203 and 207 of the constitution of Louisiana of 1879 all property shall be taxed except public property, places of religious worship or burial, charitable institutions, property used exclusively for colleges or school purposes, the estate of any public library and that of any literary society used by or connected with such library, books and philosophical apparatus and paintings and statuary of any company or association kept in a public hall, provided said property be not used for private or corporate profit, and that household property to value of $500 is also exempt, as are also for a certain length of time the capital, machinery, and property used in certain manufactures; that article 234 of said constitution provides: "The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter, or demand the same, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution," and that article 237 of said constitution provides: "No corporation shall engage in any business other than that expressly authorized in its charter or incidental thereto, nor shall it take or hold any real estate for a longer period than ten years, except such as may be necessary and proper for its legitimate business or purposes." And defendants pray that the articles cited herein from said constitutions of 1868 and 1879 may be taken as part of this answer.

That the General Assembly of Louisiana, by act No. 79 of 1880, authorized compromises of the liability of the mortgage stockholders of the bank arising out of the stock mortgages granted to secure their subscription to the capital stock of the bank,
40 said compromises to be made when deemed judicious by the bank and with the assent of the bondholders, and the sums realized from said compromises, as well as from the enforcement of said mortgages by legal proceedings, to be applied to the satisfaction of the bonds of the State issued in aid of the bank and to the liabilities and necessary expenses of the mortgage-stock department; that these defendants have no personal knowledge as to what may have been the amount of the subsisting bond indebtedness of the State in 1880, and these defendants believe that said act No. 79 of 1880 was passed at the instance and for the benefit of the bank.

Further answering, these defendants admit that the bank was required to accept said act No. 79 of 1880 under the conditions prescribed in articles 234 and 237 of the constitution of Louisiana of 1879, and these defendants are informed and believe that such acceptance was made as required by the provisions of the said statute, and defendants refer to the admission in the bill by plaintiff that said act was accepted by the bank, and these defendants pray that said act No. 79 of 1880 may be taken as part of this answer.

And these defendants, further answering, say that as they are informed and as appears by the accompanying certified copy of an act dated April 27, 1881, before Edgar Grima, notary public, being an act of registration of articles of agreement entered into during the year 1880, and which certified copy, marked Exhibit "A," these defendants pray may be taken as part of this answer, the Citizens' Bank of Louisiana, recognizing the firm of Hope and Company as the mandatory of the bondholders and other creditors, entered into articles of agreement with the said Hope and Company during the year 1880; which articles declare that the holders of the bonds issued by the State in aid of the Citizens' bank consent to act No. 79 of 1880, which act is stated in said articles to have
41 been obtained by the bank from the legislature, and said articles, referring to the holders of the State bonds as parties of the second part and to the Citizens' Bank of Louisiana as the party of the first part, contain the following, viz: "The parties of the second part, in consideration of the engagements taken by the banking department of the bank to carry on and to conclude the liquidation of the mortgage-stock department with fidelity, and to pay over the sums realized to the holders of the bonds regularly and punctually, and to be answerable for any neglect or default in the fulfilment of her engagements, agree with the party of the first part never to sue for nor seek to recover any other sum from the bank aforesaid on its endorsement or on account of the bonds than shall be realized from the mortgage-stock department, and the bondholders agree never to make any claim or demand on the banking department or on its assets for payment of said bonds, except for the amounts realized from the legal and proper liquidation

of the mortgage-stock department, under the terms of these articles of agreement."

Further answering, these defendants admit that by act No. 85 of 1888 of the legislature of Louisiana as amended by act No. 106 of 1890 the legislature of Louisiana directed the assessment and taxation of property and the shares of stock of corporations, as in said acts set forth, and to effect said object created a board of assessors with power to call on banks for returns of their property and the shares of their capital stock and the list of their shareholders, and directed said board to assess said property and shares for taxation by the city and State, and subsequently the council of the city of New Orleans by ordinance No. 5846 directed the levy of taxes for the city of New Orleans as in said ordinance set forth.

42 Further answering, these defendants admit that the Citizens' Bank of Louisiana is domiciled in the city of New Orleans and has its banking-house in the first tax-collection district of the city, and these defendants have no reason to doubt that said bank is the owner of property in all the tax-collection districts of this city created by act No. 85 of 1888.

Further answering, these defendants show that for the following reasons they contend and assert that the Citizens' Bank of Louisiana is liable to taxation, viz:

That by section 4 of the act of 1836, hereinbefore cited, the capital and the capital only was exempted from taxation during the continuance of the bank's charter.

That by act of 1833 incorporating said bank the charter was to continue for the space of fifty-one years from the passage thereof—that is, to some time in 1884.

That according to the constitution of Louisiana of 1868, article 118, the exemption of property from taxation was allowed to be exercised only in favor of property actually used for church, school, or charitable purposes.

That in consequence of said article 118 of the constitution of Louisiana of 1868 the legislature of Louisiana, by act No. 40 of 1874, providing for the continuance of the charter of the bank until 1911, continued the corporate existence of the bank with such privileges as the bank then possessed until some time in 1884, but could not extend beyond 1884 the bank's limited exemption from taxation, as above set forth, and that subsequently to 1884 the corporate existence of the bank was to continue until 1911, but without exemption from taxation.

That even had this exemption from taxation not expired at the date specified for the expiration of the charter under the said

43 act of 1833, the bank, by its acceptance of act No. 79 of 1880, has subjected itself to the conditions prescribed in articles 234 and 237 of the constitution of Louisiana of 1879; that in consequence the bank since said acceptance has held its charter subject to the provisions of said constitution, and that these provisions subject the bank to taxation.

Further answering, the defendants The Board of Assessors show that they have avowed their purpose to assess for the years 1889,

1890, 1891, and 1892, under said act No. 85 of 1888, as amended by said act No. 106 of 1890, the property of the said bank and the shares in its capital stock, and defendants believe that the taxes thus proposed to be assessed will exceed in amount $6,000, and they admit that to the end of making said assessment said board has demanded of the complainant a return of its property and of its shareholders, and unless prevented by process of this court said board proposes to make said assessment as aforesaid for taxation, and these defendants admit that the purpose of such proceeding is to enforce the payment of taxes based on such assessment.

Further answering, these defendants deny that the present attempt to make the assessment for the current year and for the three years prior to the current year is any admission by them of the exemption claimed by plaintiff.

Further answering, these defendants show that they are informed that the decision of the supreme court of Louisiana referred to in complainant's bill as reported in the 32nd Louisiana Annual, page 239, does not decide that complainant is entitled to exemption from taxation to the extent claimed in its bill herein, but, on the contrary, so far as the decision pronounced on the question of exemption from taxation such exemption was applicable to the capital only, and these defendants show that said decision as reported
44 was rendered in February, 1880, prior to the expiration of the bank's charter, according to the act of 1833, and prior to the passage of act No. 79 of 1880, and even if the decision had the scope claimed for it in complainant's bill herein the decision is inapplicable to questions arising upon the expiration of the charter at the date fixed in the act of 1833 and upon the acceptance by the bank of the conditions set forth in said act No. 79 of 1880, and these defendants say that they are informed that in the two suits brought subsequently in the civil district court for the parish of Orleans, viz., Nos. 12429 and 20541 of the docket thereof, the issues now raised by these defendants in this answer were not presented to nor passed on by the court, and these defendants upon their information and belief deny that any one of the alleged judgments mentioned in complainant's bill herein is *res judicata* as to this existing controversy, and these defendants contend that in this present controversy none of these alleged judgments of court can in any manner whatsoever affect these defendants adversely.

And these defendants are informed and believe, and therefore aver, that their proposed action will not be in disregard of the complainant's charter, nor of the constitution of Louisiana of 1812, nor of any of the acts referred to in the bill of complainant herein, nor of the act No. 40 of 1874, and show that they are informed and believe, and therefore aver, that according to the correct construction of said act No. 40 of 1874 complainant's right of exemption from taxation was not and could not be extended thereby beyond the date fixed by the act of 1833 for the expiration of the bank's charter, notwithstanding that the bank's corporate existence was continued until 1911.

Further answering, these defendants, for the reasons here-
45 inbefore recited, deny that act No. 40 of 1874 extended to 1911 the complainant's exemption from taxation, and they say that whatever may have been complainant's rights during the continuance of the charter, as provided by the acts of 1833 and 1836, they deny that act No. 40 of 1874 constitutes any contract between the State, stipulating for itself and the city, and complainant and its shareholders, under which complainant is entitled to exemption from taxation beyond the date fixed by the act of 1833 for the expiration of the charter; and these defendants, for the reasons hereinbefore set forth, deny that article 118 of the constitution of Louisiana of 1868, and that articles 203, 207, 234, and 237, and any other articles of the constitution of Louisiana of 1879, and said act No. 79 of 1880, and said act No. 85 of 1888, and said act No. 106 of 1890, and said ordinance of the council No. 5846, are in any manner violative of and repugnant to the 10th section of article 1 of the Constitution of the United States, prohibiting legislation as to the impairment of contracts.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are by the said bill charged; without this, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

(Signed) JAS. A. RENSHAW,
Pres't Board of Assessors for the Parish of Orleans.

46 (Signed) [SEAL.] JOHN FITZPATRICK, *Mayor,*
E. A. O'SULLIVAN, *City Attorney,*
H'Y RENSHAW, *Ass't City Att'y,*
Solicitors for the Board of Assessors and for the City of New Orleans.

James A. Renshaw, president of the board of assessors for the parish of Orleans, being duly sworn, deposes and says that he has read the foregoing answer and signed the same and knows the contents thereof to be true of his own knowledge except as to the matters therein stated to be on his information and belief, and as to those matters he believes them to be true.

(Signed) JAS. A. RENSHAW, *President.*

Sworn to and subscribed before me this 7th day of Nov'r, 1892.

[SEAL.] (Signed) CAS. H. SHIELDS, *Not. Pub.*

John Fitzpatrick, mayor of the city of New Orleans, being duly sworn, deposes and says that he has read the foregoing answer and signed the same and knows the contents thereof to be true of his

own knowledge except as to the matters therein stated to be on his information and belief, and as to those matters he believes them to be true.

(Signed) JOHN FITZPATRICK, *Mayor.*

Sworn to and subscribed before me this 7th day of Nov'r, 1892.

[SEAL.] (Signed) CAS. H. SHIELDS, *Not. Pub.*

47 *Notice of Filing of Answer.*

Extract from the Chancery Order Book.

MONDAY, *November* 7, 1892.

CITIZENS' BANK OF LOUISIANA *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

The Board of Assessors for the Parish of Orleans and The City of New Orleans, two of the defendants herein, through E. A. O'Sullivan, city attorney, and H'y Renshaw, ass't city attorney, solicitors, have this day filed their answer to the bill of complaint herein.

Demurrer of State Tax-collectors.

Filed Nov. 7, 1892.

Circuit Court of the United States, Eastern District of Louisiana.

CITIZENS' BANK *vs.* BOARD OF ASSESSORS *et al.* } No. 12112. In Equity.

The demurrer of C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, State tax-collectors respectively for the 1st, 2nd, 3rd, 4th districts of the parish of Orleans, to the bill of complaint of The Citizens' Bank, complainant.

The defendants, by protestation, not confessing or acknowledging all or any of the matters or things in said bill of complaint to be true in such manner and form as the same are thereby or therein set forth and alleged, do demur thereto, and for cause of demurrer show:

1. That the said complainant hath not by *this* said bill made such a case as entitleth it in a court of equity to any relief
48 from or against these defendants touching the matter contained in the said bill or any of such matters.

2. That the said complainant hath not in its said bill set forth any matter or thing whereby this honorable court can have or maintain jurisdiction over this cause.

Wherefore, and for other divers good causes of demurrer appearing in said bill of complaint, defendants do demur to said bill and to all matters and things contained therein, and humbly pray the judgment of this honorable court whether they shall be condemned

to make any or further answer to the said bill, and they pray to be hence dismissed with their reasonable costs in this behalf sustained, including 10 % attorneys' fees on the amount of the State tax involved in this litigation, as provided in sections 56 and 57 of the act 106 passed at the session of the General Assembly of 1890 of the State of Louisiana, page 120.

I hereby certify that in my opinion the foregoing demurrer of C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, State tax-collectors, defendants, to the bill of complaint of the Citizens' Bank of Louisiana is well founded in law and proper to be filed in the above case.

(Signed) R. LYONS, *Solicitor.*

W. T. PATTON.

(Signed) H. GUILLOTTE.

HENRY D. MONIER.

C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, being sworn, say that they have read the foregoing demurrer to the bill of complaint in this suit, and that the same is not interposed for the purpose of delaying the said suit or any proceeding therein.

(Signed) H. GUILLOTTE.

HENRY D. MONIER.

W. T. PATTON.

Sworn to and subscribed before me this 7th day of November, 1892.

(Signed) E. R. HUNT,

U. S. Commissioner.

49 *Notice of Filing of Demurrer.*

Extract from the Chancery Order Book.

MONDAY, *November* 7, 1892.

CITIZENS' BANK OF LOUISIANA *vs.* BOARD OF ASSESSORS & *als.* } No. 12112.

C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, State tax-collectors respectively for the 1st, 2nd, 3rd, 4th districts of the parish of Orleans, through their solicitor, R. Lyons, have this day filed a demurrer to the bill of complaint herein.

Rule for Injunction Continued.

Extract from the Minutes, November Term, 1892.

NEW ORLEANS, SATURDAY, *November* 12, 1892.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

CITIZENS' BANK *vs.* BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of H. C. Miller, solicitor for the complainant, it is

ordered that the motion for an injunction herein be continued to Saturday, Nov. 19, 1892.

Hearing, Offering of Evidence, and Continuance.

Extract from the Minutes, November Term, 1892.

NEW ORLEANS, SATURDAY, *November* 19, 1892.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

50 THE CITIZENS' BANK *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

This cause came on to be heard upon the application of the complainant for an injunction *pendente lite*, Henry C. Miller appearing for the complainant; E. A. O'Sullivan, city attorney, and H'y Renshaw, ass't city attorney, for the Board of Assessors and City of N. O.; R. Lyons for the State tax-collectors; whereupon complainant offered evidence in support of the motion, and defendants offered evidence *contra*, and the cause was argued in part by the solicitors for the parties respectively and continued to Wednesday, Nov. 23, 1892, at 11 a. m.

Note of Evidence, Defendants.

Filed Nov. 19, 1892.

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK *vs.* THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS *et als.* } No. 12112.

Note of evidence on motion for injunction.

The Board of Assessors for the parish of Orleans and the City of New Orleans offer in evidence the following, viz:

Act of April 1, 1833, of the legislature of Louisiana, incorporating the Citizens' bank.

Act of January 30th, 1836, of the legislature of Louisiana, amendatory and supplementary to the several acts relative to the act to incorporate Citizens' Bank of Louisiana.

51 Constitution of Louisiana of 1868.

Act 141 of 1852 of the legislature of Louisiana.

Act 246 of 1853 of the legislature of Louisiana.

Constitution of Louisiana of 1879.

Act 79 of 1880 of the legislature of Louisiana.

Copy of notarial act, April 27th, 1881, before Grima, notary public (marked Exhibit "A").

Certificate of secretary of state of Louisiana showing acceptance by Citizens' bank of act 79 of 1880.

Act 85 of 1888 of the legislature of Louisiana.

Act 106 of 1890 of the legislature of Louisiana.
Ordinance of the city of New Orleans, No. 5846, C. S.
The answer herein of the Board of Assessors and the City of New Orleans, sworn to by Jas. A. Renshaw, president of the board of assessors, and John Fitzpatrick, mayor of the city of New Orleans.

Agreement as to Printed Constitutions of Louisiana, Statutes of Louisiana, and Decisions of Supreme Court of Louisiana Offered in Evidence.

Filed Nov. 19, 1892.

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS. } No. 12112.

Agreement.

With reference to the constitutions of Louisiana offered in evidence herein and the statutes of Louisiana offered in evidence herein and the decisions of the supreme court of Louisiana in Citizens' Bank *vs.* Bonny, tax-collector, reported in 32 Louisiana Annual Reports, page 239 and following, also offered in evi-
52 dence herein, it is agreed that said constitutions and statutes and decisions as contained in the official volumes are to be used in evidence without the necessity of furnishing copies either in the circuit court or any appellate court. All leg. acts & constitutions & judicial decisions shall be deemed before the ct.

(Signed) E. A. O'SULLIVAN, *City Att'y.*
H. C. MILLER, *For Comp't.*

Copy of Notarial Act, April 27th, 1881, Before Grima, Notary Public (Marked Exhibit "A").

Offered by defendants and filed November 19, 1892.

UNITED STATES OF AMERICA,
State of Louisiana, City of New Orleans. }

Be it known that on this twenty-seventh day of the month of April, in the year of our Lord one thousand eight hundred and eighty-one, and of the Independence of the United States of America the one hundred and fifth, before me, Edgar Grima, a notary public, duly commissioned and sworn, in and for the city and the parish of Orleans, therein residing, and in the presence of the witnesses hereinafter named and undersigned, personally appeared Mr. Emile Leon Carriere, residing in this city, president of the Citizens' Bank of Louisiana, a corporation created by law and established in the said city of New Orleans, the said appearer herein acting in his said
53 capacity by virtue of a resolution adopted by the board of directors of the said bank at their sitting of the 26th day of April, 1881, a certified copy of which resolution is annexed for

reference to another act of even date herewith in this office, who, in his said capacity, presented and delivered to me, notary, to be registered among the records of my office a certain printed document, signed by Messrs. Hope & Co., at Amsterdam, on the eighth of October, 1880, and signed by the said E. L. Carriere, in his capacity of president aforesaid, at New Orleans, on the fifth of November, 1880, and being articles of agreement concluded between the Citizens' Bank of Louisiana, of the one part, and bondholders and creditors of the said bank, of the second part.

And the said appearer having requested me, the said notary, to transcribe and register the said document in my office, to serve and avail as occasion shall or may require, I, the said notary, complying with the request of the said appearer, have herein copied the said document in full and verbatim, as follows, to wit:

"These articles of agreement concluded between the Citizens' Bank of Louisiana, of the one part, and all and each of the owners and holders of any of the bonds of the State of Louisiana, which were originally issued under the act of the General Assembly of that State, approved 30th January, 1836, amendatory and supplementary to the acts relative to the act 'to incorporate the Citizens' Bank of Louisiana,' and the owners and holders of any bonds or warrants for interest or of other form of security given for the extension, renewal or consolidation of any of this debt as originally created, under any subsequent act of the General Assembly of that State, by any officer or agent of that State, and who shall become parties to these articles and assent to the conditions herein established.

54 "Article 1. The parties of the second part are creditors of the State of Louisiana, as the holders of bonds of the State, issued under the act of the General Assembly aforesaid, and other acts passed by the General Assembly relative thereto, and are creditors of the Citizens' bank aforesaid, the party of the first part, as the endorser and guarantor of the bonds and the securities given in extension thereof, and have an immediate interest in all the securities granted by the bank aforesaid in its act of incorporation and by the third and fourth sections of that act to the holders of its bonds, and which, by the act of January, 1836, were transferred to the State and to the holders of its bonds. And it appearing to the parties of the second part that the State of Louisiana and the Citizens' Bank of Louisiana, and the debtors of that State and of that bank and of these parties as bondholders who are designated in the said acts, and who have secured their debts by mortgage, are greatly embarrassed, and the funds pledged have deteriorated, these parties of the second part consent to the act of the General Assembly, approved the 9th of April, 1880, which was obtained by the party of the first part, from the General Assembly of Louisiana;—to provide for the liquidation and settlement of those debts, upon terms of compromise, so as to secure the application of the amounts to be realized from said mortgages to the payment of the State bonds and to the legal liabilities and necessary expenses incident to the execution of the act of the General Assembly aforesaid—which act is as follows and forms part of the same.

"No. 79.) AN ACT

"To enable the Citizens' Bank of Louisiana to make compromise and settlements with its mortgage stockholders; to enable said stockholders to free their real estate from said mortgages; to secure the application of the amounts realized from said mortgages to the payment of the State bonds issued in aid of the bank, and to the legal liabilities and necessary expenses of said mortgage-stock department; to increase the directors for the State on the board of said bank, and to confer on them certain duties and powers with reference to said compromises; to prescribe the condition on which this act is passed and is to have effect, and to require and prescribe the mode in which the benefits of the act shall be accepted.

"Whereas, due proof has been shown to the house in which this bill originated that article 48 of the constitution has been complied with; therefore

"SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, that the Citizens' Bank of Louisiana, in addition to the powers now conferred by law, shall have power to compromise and settle the liability of the mortgage stockholders of said bank, arising out of the stock mortgages granted by them to secure their subscriptions to the capital stock of said bank; said compromises to be made when deemed judicious by said bank, and with the assent of the bondholders; provided, the same be approved by the directors on the part of the State, as provided in this act, on such terms as may be agreed upon, and when effected, the said stock mortgages to be released and cancelled.

"Second. That all sums realized from said compromises, as well as from the enforcement of said mortgages, by the usual legal proceedings, shall be held and applied, by the banking department of said bank, to the satisfaction of the bonds of the State, issued in aid of the bank, and to the legal liabilities of said mortgage-stock department, and to the necessary expenses of said department.

"Third. That the directors for the State on the board of said bank shall be increased to five, to be appointed by the governor, when this act shall be accepted by the bank, whose duties shall be the same as now provided by law; and in addition thereto they shall supervise the compromise, as contemplated in section 1 of this act, and for this purpose they shall hold meetings, when called upon so to meet by the president of the board of directors of the Citizens' bank, and shall keep a record of their meetings, and no compromises, under the provisions of this act, shall be effected without the approval of the majority of said directors on the part of the State.

"Fourth. That this act shall not be binding or confer any right upon the bank unless accepted within twelve months from the date of this act, and under the conditions prescribed in articles 234 and

237 of the constitution, such acceptance to be manifested by the bank, in writing, and filed in the office of the secretary of state.

R. N. OGDEN,
Speaker of the House of Representatives.
S. D. McENERY,
Lieutenant Governor and President of the Senate.

"Approved April 9, 1880.

LOUIS A. WILTZ,
Governor of the State of Louisiana.

"A true copy.
WILL A. STRONG,
Secretary of State.

"Article 2. The parties to these articles agree, that the debt due or to become due on the bonds issued as aforesaid, and the additions thereto by interest warrants and of interest on the bonds not paid, may be stated as follows: 9,566 bonds, of which—

57	9,266 are State bonds, amounting to.....	$4,118,222 29 and
	300 are bank bonds, amounting to.....	133,333 33
		4,251,555 62
	9,566 warrants for extended coupons at $250.56 (fl. 626.40).....	2,396,856 96
	9,566 coupons due 1st February, 1880, at $12 (fl. 30).....	114,792 00
	9,566 coupons due 1st February, 1880, on extended warrants at $6.264 (f. 15.66)..... ..	59,921 42
	9,566 coupons due August, 1880, on the same bonds and warrants.....	174,713 42
	Together.....	$6,997,839 42

besides the running interest since August, 1880.

"Article 3. The party of the first part agrees with the parties of the second part to cause an inventory to be made forthwith of all the mortgages, and the obligations and demands secured by mortgage pledges or other form of security, and all stock subscriptions and obligations appertaining to the subscription for stock in the Citizens' bank and securities therefor, and of all movable and immovable property of whatever kind, belonging to or held by any title by the said bank which shall be subject to the payment of any portion of the debt described in the preceding article. The object and purpose for the same being to obtain a precise and full statement of the property and effects which the said Citizens' bank holds or controls, to be appropriated to the payment of the debt aforesaid, under the acts of the General Assembly of the State of Louisiana, and according to the terms of these articles of agreement. This inventory shall be submitted to the control of the parties of the second part or their agents.

"Article 4. The president and directors of the Citizens' Bank of Louisiana, as organized under the act approved the 9th of
58 April, 1880, and promulgated as act No. 79 of this year, shall superintend and control the execution of the terms of the said enactment and conduct the liquidation of the mortgage-stock department, and all the settlements and compromises to be made shall be conducted in the name of the bank; and the said bank shall receive and hold all the moneys which may be collected from any of the property contained in the inventory; but the said moneys shall be kept separately from all other moneys of the bank, so that they may be, at any time, distinguished from all other funds, and be subject to the examination of the agents of the bondholders or the directors appointed by the State. And whenever there shall be collected the sum of $50,000, this sum shall be appropriated to the payment of the debt of the State and of the bank, as shown by the bonds and warrants of interest; provided, that the bank shall be allowed to substract from the collections the legal and reasonable expenses incident thereto, as those expenses become payable.

"Article 5. The commercial firm of Hope & Co. of Amsterdam, which has for a long period been the correspondent of the bank, as the mandatory of the bondholders and other creditors, shall have authority to represent the bondholders and may appoint one or more persons who shall have power to confer with the president and directors of the bank upon all subjects connected with this liquidation, and shall deliberate with them as to the course most prudent to be adopted for the interest of the bondholders, the State and the bank, in the matters of arrangement, compromise or collection by suit at law, and no sale of property and no compromise or settlement by which the debt or the mortgage, or other security for the debt is diminished, or a discharge granted without full payment, shall be valid and operative without the con-
59 currence of such agents. These agents shall have power to examine all the acts and entries of the bank in respect to the liquidation, and have liberty to take copies or abstracts therefrom and to make reports thereof to the bondholders or their agents, whenever they may deem it proper.

"Article 6. The parties of the second part are not to be understood as impairing or releasing any right or claim upon the State of Louisiana, as the obligor of the bonds and the principal and primary debtor; nor against the bank, otherwise than is expressed in the article seven of this agreement. These parties consent to the fulfillment of the objects of the act of the General Assembly, approved the 9th April A. D. 1880, because the same was designed to relieve the State and the bank, and because the liquidation of the mortgage-stock department and the application of the sums to arise from such liquidation to the payment of the bonds and interest thereon, seem to be demanded under the conditions which exist.

"Article 7. It is known to the parties of the second part that the Citizens' Bank of Louisiana, under the authority of an act of the

General Assembly of Louisiana, approved 28th April, 1853, and promulgated as act No. 246 of the legislative acts of that year, established in that bank two departments for the care and management of distinct and separate funds and assets, and that the subscribers to one of the departments called the cash or banking department *and* contributed to form one of these departments, and that the banking business has been always conducted upon the capital so subscribed, and that the funds of the mortgage-stock department, for the most part, consisted of mortgages and loans upon a mortgage security that was not available for current banking, and that the banking department claims that the endorse-
60 ment and guarantee of the Citizens' bank of the State bonds do not implicate the separate funds or assets of that department for the payment of the bonds.

"It is agreed between the parties that (the mortgage-stock department having received advances for the sum of $682,430.61 from the banking department for the payment of interest on the bonds, and expenses of the mortgage-stock department, and this sum being due, subject to certain credits, and the application of certain securities, which are wholly inadequate for the payment of that debt after having been applied with the consent of the parties of the second part) the banking department, in consideration of this agreement, abandons all claim for the excess of its advances, and that the advances aforesaid shall be considered settled by the 500,000 of assets of the mortgage-stock department, which was withdrawn to form the capital of the banking department, under the compact, and constitutes the cash stock of the mortgage-stock department in the banking department.

"The parties of the second part, in consideration of the engagements taken by the banking department of the bank, to carry on and to conclude the liquidation of the mortgage-stock department with fidelity, and to pay over the sums realized to the holders of the bonds, regularly and punctually, and to be answerable for any neglect or default in the fulfilment of her engagements,—agree with the party of the first part, never to sue for, nor seek to recover any other sum from the bank aforesaid on its indorsement or on account of the bonds, than shall be realized from the mortgage-stock department, and the bondholders agree never to make any claim or demand on the banking department or on its assets for payment of said bonds, except for the amounts realized from
61 the legal and proper liquidation of the mortgage-stock department, under the terms of these articles of agreement.

"But these presents are not to be construed as impairing the claims of the parties of the second part upon the bonds against the State, which claims are reserved in all of their integrity, as if this agreement had not been made.

"These articles of agreement shall become obligatory whenever they shall be subscribed by the bank and by Hope & Co. as de-

pository of bonds aforesaid, under an act dated 4th February, 1880, drawn up by a notary public at Amsterdam.

"New Orleans, 5th Novem., '80.
"(Signed) E. L. CARRIERE, *Pres't.*
"Amsterdam, 8th October, 1880.
"(Signed) HOPE & CO."

And now I, the said notary, having transcribed and registered the said document as above, did carefully compare the foregoing copy with the aforesaid document; and, having found the said copy correct and identical with the document thus presented to me as aforesaid, I, the said notary, have paraphed the said document "*ne varietur*," to be identified with the present act, and have delivered back the said document to the said Emile L. Carriere, who, in his said capacity, does hereby acknowledge the receipt thereof.

Thus done and passed in my office, at the city of New Orleans, on the day and in the month and year first before written, in the presence of Messrs. Charles G. Andry and George Grima, both of this city, competent witnesses, who have signed these presents, with the said appearer and me, notary, after the due reading hereof.

(Original signed) E. L. CARRIERE, *Pres't.*

CHAS. G. ANDRY.
GEO. GRIMA.
EDGAR GRIMA, *Not. Pub.*

62 I certify the foregoing to be a true copy of the original act, extant and of record in my office.
New Orleans, La., 28th October, 1892.
[SEAL.] (Signed) EDGAR GRIMA, *Not. Pub.*

Certificate of Secretary of State of Louisiana, Showing Acceptance by Citizens' Bank of Act 79 of 1880.

Offered by defendants and filed Nov'r 19, 1892.

UNITED STATES OF AMERICA, }
State of Louisiana. }

I, the undersigned, secretary of state of the State of Louisiana, do hereby certify that the Citizens' Bank of Louisiana filed in the office of the secretary of state its written acceptance of the provisions of act No. 79 of 1880, approved and promulgated 9th April, 1880, and that said acceptance was filed and duly recorded in Book of Proclamations No. 2 November 6th, 1880, pages 140–'1.

Given under my signature, authenticated with the impress of the seal of the State of Louisiana, in the city of Baton Rouge, [SEAL.] this 8th day of November, A. D. 1892.

(Signed) T. S. ADAMS,
Secretary of State.

Ordinance of the City of New Orleans, No. 5846, C. S.

Offered by defendants and filed Nov'r 19, 1892.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 14, 1891.

No. 5846, council series.

63 Be it ordained, That the rate of taxation for the year 1892 be, and is hereby, fixed at 2.02 per cent. on the assessed value of the real and personal property liable to taxation within the city limits.

Adopted by the council of the city of New Orleans December 8th, 1891.

ED. T. MANNING,
Clerk of Council.

Approved Dec. 14, 1891.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *November 19th*, 1892.

I certify that the foregoing ordinance is a true copy of ordinance No. 5846, council series, adopted by the council of the city of New Orleans December 8th, 1891; approved by the mayor December 14, 1891, and duly promulgated in the official journal.

[SEAL.] (Signed) E. L. BOWER,
Chief Clerk, Mayor's Office.

Answer of Board of Assessors and City of New Orleans, Sworn to by Jas. A. Renshaw, President of Board of Assessors, and John Fitzpatrick, Mayor of the City of New Orleans.

Offered by defendants and filed Nov'r 19, 1892.

Copied at page 31 of this transcript.

Order: Continuance.

Extract from the Minutes.

WEDNESDAY, *November* 23, 1892.

64 CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

By agreement of counsel for the parties in this cause, with leave of the court, it is ordered that the further hearing of the motion for an injunction be reassigned for Thursday, December 1, 1892, at 11 a. m.

Replication of Citizens' Bank to Joint and Several Answer of Board of Assessors and City of New Orleans, Two of the Defendants Herein.

Filed November 29, 1892.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS, THE CITY OF NEW ORLEANS, C. H. PARKER, *et als.* } No. 12112.

The replication of The Citizens' Bank, the complainant herein, to the joint and several answer of The Board of Assessors and City of New Orleans, two of the defendants herein.

This repliant, saving and reserving to itself now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver, maintain, and prove its bill of complaint to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well
65 and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by its said bill it has already prayed.

(Signed) HENRY C. MILLER,
Sol. for Compl.

Notice of Filing of Replication.

Extract from the Chancery Order Book.

TUESDAY, *November* 29, 1892.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS & *als.* } No. 12112.

The complainant herein, through H. C. Miller, solicitor, has this day filed a replication to the joint and several answer of the Board of Assessors and City of New Orleans.

Replication of Citizens' Bank to Plea of C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton.

Filed November 29, 1892.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS, THE CITY OF NEW ORLEANS, C. H. PARKER, *et als.*
No. 12112.

The replication of The Citizens' Bank, the complainant herein, to the plea of C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, defendants herein.

This repliant, saving and reserving to itself now and at all times hereafter all and all manner of benefit and advantage of
66 exception which may be had or taken to the manifold insufficiencies of the said plea, for replication thereunto says that it will aver, maintain, and prove its bill of complaint to be true, certain, and sufficient in the law to be answered unto, and that the said plea of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said plea contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by its said bill it has already prayed.

(Signed) HENRY C. MILLER, *Sol.*

Notice of Filing of Replication.

Extract from the Chancery Order Book.

TUESDAY, *November* 29, 1892.

CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS & *als.*
No. 12112.

The complainant herein, through H. C. Miller, solicitor, has this day filed a replication to the plea of C. H. Parker, H'y Guillotte, H. D. Monier, W. T. Patton, defendants.

Order as to Petition of Intervention of Hope & Co.

Extract from the Minutes, November Term, 1892.

NEW ORLEANS, THURSDAY, *December* 1*st*, 1892.

67 THE CITIZENS' BANK *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

In the matter of petition of intervention of Hope & Co.

The petition of Hope & Co. asking leave to intervene in this cause as co-complainant was presented. As to granting the same the court took the matter under advisement.

Hearing and Submission of Rule for Injunction.

Extract from the Minutes.

THURSDAY, *December* 1*st*, 1892.

THE CITIZENS' BANK *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

This cause as continued from November 19, 1892, came on this day for further hearing upon the application of the complainant for an injunction, and, the solicitors for the respective parties being all present, was proceeded with, H. C. Miller and H'y Denis appearing for complainant, E. A. O'Sullivan, H'y Renshaw, R. Lyons, M. J. Cunningham for defendants; whereupon, after hearing further argument from counsel, the case was submitted.

Order: Demurrer Fixed for Hearing.

Extract from the Minutes.

MONDAY, *January* 2, 1893.

68 THE CITIZENS' BANK *vs.* BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of Henry C. Miller, solicitor for the complainant, it is ordered that the demurrer herein filed by the State tax-collectors be assigned for hearing on Saturday, January 7, 1893, at 11 a. m.

Rule to File Supplemental Bill.

Entered and filed January 5, 1893.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA *vs.* THE BOARD OF ASSESSORS *et als.* } No. 12112.

On motion of Henry C. Miller, of counsel for the Citizens' Bank,

and upon suggesting that under the order of this court and subject to the protest of your orator the board of assessors have prepared supplemental assessments and assessment-rolls for taxation for the years 1889, 1890, 1891, 1892 of the real estate, property, and shares of the capital stock of your orator, the complainant desires by its supplemental bill to urge the objections and grounds of defence against said supplemental assessments and supplemental assessment-rolls.

It is therefore ordered that defendants show cause on Saturday morning of the 7th day of January, 1893, at eleven o'clock a. m., why said supplemental bill should not be filed.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Jan'y 6, '93,
69 and on the same day I served a copy hereof on E. A. O'Sullivan, att'y of record, by handing the same to him in person, in the city of New, Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
D'y U. S. Marshal.

Submission of Demurrer.

Extract from the Minutes.

SATURDAY, *January* 7, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

This cause came on to be heard upon the demurrer filed by The State Tax Collectors, defendants herein—H. C. Miller appearing for the complainant, Cunningham & Lyons for defendants—and was submitted, when the court took same under advisement.

Order: Rule to File Supplemental Bill Continued.

Extract from the Minutes.

SATURDAY, *January* 7, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of H. C. Miller, solicitor for complainant, suggesting that defendants desire a continuance of the rule to file a supplemental bill, it is ordered that the said rule go over to Saturday, January 14, 1893, at 11 a. m.

Continuance of Rule to File Supplemental Bill.

Extract from the Minutes.

70 SATURDAY, *January* 14, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

By agreement of counsel for the parties the rule to file a supplemental bill is continued to Saturday, January 21, 1893, at 11 a. m.

Order: Continuance of Rule.

Extract from the Minutes.

SATURDAY, *January* 21, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of Henry C. Miller, solicitor for complainant, it is ordered that the rule to file a supplemental bill herein be continued to Saturday, January 28, 1893, at 11 a. m.

Decree Granting Injunction.

Entered & filed January 26, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

This cause came on heretofore to be heard upon the motion of the complainant for an injunction *pendente lite* and was submitted on the bill, affidavit, exhibits and offerings, and arguments of counsel.

71 On consideration whereof and for the reasons assigned in the written opinion of the court on file—

It is ordered, adjudged, and decreed that the motion be granted, and that writs of injunction *pendente lite* issue herein restraining and enjoining the defendants from attempting to collect any tax upon the capital or property of the complainant acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April 1, 1833, and from all steps towards collecting any tax upon the shares of the capital stock of the complainant until the further order of the court.

January 26, 1893.

(Signed) EDWARD C. BILLINGS, *Judge.*

Order: Rule to File Supplemental Bill Continued.

Extract from the Minutes.

SATURDAY, *January* 28, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

On motion of counsel for the parties herein, it is ordered that the rule to file a supplemental bill be continued to Saturday, February 4, 1893, at 11 a. m.

72 *Injunction, Issued to the Board of Assessors for the Parish of Orleans January* 30, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, New Orleans Division.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States of America to the Board of Assessors for the Parish of Orleans, thro' its president, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' bank in a bill in equity lately exhibited against you and others touching certain matters and things therein set forth:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said Board of Assessors for the Parish of Orleans, your attorneys and each of you, are hereby commanded and strictly enjoined under the penalty of the law that you absolutely refrain and desist from attempting to collect any tax upon the capital or property of the Citizens' bank acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April 1, 1833, and from all steps towards collecting any tax upon the shares of the capital stock of the Citizens' bank, and that you remain so inhibited and enjoined until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 30 day of January, in the year of our Lord 1893.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Jan'y 30, '93, and on the same day I served copy hereof on the Board of Assessors

of the Parish of Orleans, La., by handing the same to Hon. Jerry Gleason, president of said board, in person.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

73 *Injunction, Issued to the City of New Orleans January* 30, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, New Orleans Division.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States of America to the City of New Orleans, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' bank in a bill in equity lately exhibited against you and others touching certain matters and things therein set forth:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said City of New Orleans, your attorneys and each of you, are hereby commanded and strictly enjoined under the penalty of the law that you absolutely refrain and desist from attempting to collect any tax upon the capital or property of the Citizens' bank acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April 1, 1833, and from all steps towards collecting any tax upon the shares of the capital stock of the Citizens' bank, and that you remain so inhibited and enjoined until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 30 day of January, in the year of our Lord 1893.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Jan'y 30, '93, and on the same day I served copy hereof on the City of New Orleans, La., by handing the same to Hon. John Fitzpatrick, mayor of said city, in person.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

74 *Injunction, Issued to C. H. Parker, Henry Guillotte, H. D. Monier, & W. T. Patton, State Tax-collectors, &c., January* 30, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, New Orleans Division.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States of America to C. H. Parker, Henry Guillotte, H. D. Monier, & W. T. Patton, State tax-collectors for the first, second, third, & fourth districts of New Orleans, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' bank in a bill in equity lately exhibited against you and others touching certain matters and things therein set forth:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said C. H. Parker, Henry Guillotte, H. D. Monier, & W. T. Patton, State tax-collectors for the first, second, third, & fourth districts of New Orleans, your attorneys and each of you, are hereby commanded and strictly enjoined under the penalty of the law that you absolutely refrain and desist from attempting to collect any tax upon the capital or property of the Citizens' bank acquired by virtue of the act "to incorporate the Citizens' Bank of Louisiana," approved April 1, 1833, and from all steps towards collecting any tax upon the shares of the capital stock of the Citizens' bank, and that you remain so inhibited and enjoined until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 30 day of January, in the year of our Lord 1893.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Jan'y 30, '93, and on the same day, month, and year I served copy hereof on the following-named parties in the city of New Orleans, La., in the following manner, to wit: C. H. Parker, State tax-collector first dist. of the city of New Orleans, by handing the same to him in person; Henry Guillotte, State tax-collector second dist. of the city of New Orleans, by handing the same to him in person; H. D. Monier, State tax-collector third dist. of the city of New Orleans, by handing the same to him in person; W. T. Patton, State tax-collector fourth dist. of the city of New Orleans, by handing the same to him in person.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal,
" J. E. BOEHLER,
D'y U. S. Marshal.

75 *Continuance of Rule to File Supplemental Bill.*

Extract from the Minutes.

SATURDAY, *February* 4, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

By agreement of the solicitors for the parties herein, with leave of the court, the rule to file a supplemental bill is continued to Saturday, February 11, 1893, at 11 a. m.

Continuance of Rule to File Supplemental Bill.

Extract from the Minutes.

SATURDAY, *February* 11, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of the solicitors for the parties herein, it is ordered that the rule to file a supplemental bill be continued to Wednesday, February 15, 1893.

Supplemental Bill.

Filed Feb'y 11, 1893.

To the honorable the circuit court of the United States in and for the fifth circuit and district of Louisiana:

Now comes the Citizens' Bank of Louisiana and, reserving the benefit of and insisting upon all the defences heretofore urged in the bill of the complainant, and in order to correct some inaccuracies in the supplemental bill herein filed, and with the leave of this court, files this amended and supplemental bill in the suit of your
76 orator *vs.* The Board of Assessors, No. 12112 of the docket of this court.

That under the order of this court permitting the assessment, subject to the decree to be rendered, of the property, shares, and of the capital stock of your orator, and under the protest that no such such assessments were authorized by law, and that if said shares or property were liable for taxation, and they are not, that in making said assessments the market value of said shares for 1889 and 1890 and the book value thereof for 1891 and 1892 should be adopted, and that the deductions directed by law should be given, the board of assessors for the parish of Orleans have prepared supplemental rolls for 1889, 1890, 1891, 1892, exhibiting the assessments for city and State taxation for those years of said shares of the capital stock and of the property of your orator; that under said protest your orator furnished said board with a list of its shareholders and the book value of said shares in 1891 and 1892, and claimed that if said shares

were liable to taxation, and they are not, that the *pro rata* of all direct taxes proposed to be assessed upon the real estate of your orator in this and other parishes of the state should be deducted; and your orator owned and still owns country property, *i. e.*, in said other parishes real estate of upwards of one hundred and thirty thousand dollars of value, on all of which it is proposed to assess taxes for said years 1889, 1890, 1891, 1892, and in fact said assessments, notwithstanding your orator's protest, have already been made, as your orator believes and charges, but, disregarding said demand and against the protest of your orator, the board of assessors for the parish of Orleans have assessed for taxation for said years 1889 to 1892, inclusive, the real estate of your orator in the parish of Orleans, and have assessed the shares of stock aforesaid for said
77 years in excess of their book value, and have not allowed any deduction from said share assessments for the direct taxes proposed to be claimed upon said country property, said assessments being as follows, to wit: For the year 1889, on the shares of stock $15.88 per share and on the property $70,000.00; for the year 1890, on the shares of stock $14.58 per share and on the property $70,000.00; for the year 1891, on the shares of stock $90.91 per share and on the property $70,000.00; for the year 1892, on the shares of stock $89.58 per share and on the property $70,000.00, as is more fully shown by said supplemental assessment-rolls, to which reference is made for fuller explanation and greater certainty; and your orator shows that even if said shares and property were liable to taxation, and they are not, that said share assessments for 1891 and 1892 *is* in excess of the book value thereof, *i. e.*, the actual value, and, as shown by the books of the bank and in said share assessments, no deduction has been given for the direct taxes on said country property, by reason of which said assessments are void, as well as because of the exemption from taxation of your orator's property, capital, and shares of stock, and because the deductions from the share assessments directed by law, under color of which said assessments are made, have not been given.

Your orator shows that said supplemental assessments propose to charge the shareholders and the shares as owned by them in 1892 with the taxes asserted for the previous years; that the said shares have been and are bought and sold from day to day in the market, and thus have been and are changing hands from time to time; that the shareholders of 1890, 1891, 1892 are not in any of said years in great part the same as the shareholders of the previous years or year; that there is no lien on the shares, and the shareholders acquired said shares free from and cannot be charged
78 with nor can their shares be subject to any charge for nor could your orator, even if the shares were taxable, demand from its shareholders any taxes on said shares claimed for years when the shares were owned by others than the present shareholders, *i. e.*, of 1892; and your orator shows that the law under color of which the assessors claim furnishes no warrant to assess and charge the shareholders of any years for taxes claimed for previous years, and the seizure and sale of said shares or to exact payment

from your orator of the taxes claimed on said shares for the years previous during which the shares were owned by others than those of the years of the assessments would be to take the property of the shareholders or of your orator without due process of law, and any law or authority of the State professing to authorize such seizure and sale or demands or exactions would be void as repugnant to the fifth amendment of the Constitution of the United States, forbidding the taking of property of citizens without due process of law.

And, further, your orator shows that even if said shares were taxable, then each shareholder would have to be assessed in the assessment district of his residence, instead of which, although said shareholders reside in different assessment districts, all of them are assessed in said supplemental rolls in one district—that of the bank; and, further, your orator shows that such assessments do not exhibit the amount of the taxes assessed to its shareholders essential to constitute an assessment, and on these grounds to seize and sell said shares or exact payment from your orator of any tax based on said supplemental assessment-rolls would be to take the property without due process of law, forbidden by said fifth amendment of the Constitution of the United States.

79 And your orator shows that, notwithstanding the aforesaid protest and complaint of your orator, the board of assessors have persisted in said assessments, have recorded the same in the office of the recorder of mortgages of this parish so as to effect the real estate and stock of your orator with apparent liens, thereby clouding the title thereto.

And your orator shows that the furnishing of said statements to and demands of your orator upon said assessors and the complaints of your orator against said assessments and all of your orator's actions in respect thereto have been at all times under the protest and exception that said real estate and property and capital and shares of stock were wholly exempt from taxation, State, parish, or municipal, as claimed in the bill; that said statements, demands, complaints, and actions of your orator in respect to said assessments under said protest and exemption was constrained under the order of this court directing said assessments pending the suit and without the least prejudice to your orator's rights and only to exhibit the method and measure of said assessments required by said legislative acts to be pursued if said real estate, property, and shares were liable to be assessed at all, and they are not, and your orator claims the full protection of said exemption and of the decree already made as well as the final decree to be made upon the original bill, and no other effect than subject to all the grounds of relief in the original bill and the supplemental bills and the final decree to be rendered is to be given said supplemental assessments, and this bill is filed to show that said supplemental assessment-rolls are void and null, even if said real estate and shares were liable to any assessment, which is denied.

Wherefore your orator, reserving the benefit of and insisting upon

all the grounds for relief exhibited in the original bill and
80 with leave of this court, now files this supplemental bill and prays for process to defendants to answer thereto, and after due proceedings that the decree be rendered as prayed for in the original bill, and that it be further ordered, adjudged, and decreed that said supplemental assessments and supplemental rolls and the filing thereof in the office of the recorder of mortgages be decreed to be void and null, and for general relief.

(Signed) HENRY C. MILLER,
Sol. for Compl't.

Order.

Let this supplemental bill be filed.

(Signed) EDWARD C. BILLINGS, *Judge.*

New Orleans, Feb'y 11, 1893.

George W. Nott, being duly sworn, deposes that all the allegations contained in the foregoing supplemental bill in so far as they are stated upon affiant's own knowledge are true and all those stated upon the information of others he believes to be true.

(Signed) G. W. NOTT, *Pres't.*

Sworn to and subscribed before me, notary, at New Orleans, Louisiana, this tenth day of February, A. D. eighteen hundred and ninety-three.

[SEAL.] (Signed) EDGAR GRIMA, *Not. Pub.*

81 *Subpœna in Chancery, Issued to the Board of Assessors Feb'y 15, 1893.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon the Board of Assessors, through its president, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against it and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117th year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that it is required to enter its appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on the Board of Assessors of the Parish of Orleans and City of New Orleans, La., by handing the same to Hon. Jeremiah M. Gleason, president of said board, in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

82 *Subpœna in Chancery, Issued to the City of New Orleans Feb'y* 15, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon the City of New Orleans to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against it and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117th year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that it is required to enter its appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on the City of New Orleans, La., by handing the same to Hon. John Fitzpatrick, mayor of said city, in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

83 *Subpœna in Chancery, Issued to C. H. Parker, State Tax-collector 1st District, Feb'y 15, 1893.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon C. H. Parker, State tax-collector for the 1st collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on Mr. C. H. Parker, tax-collector of the 1st collection district of the parish of Orleans, La., by handing the same to him in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

84 *Subpœna in Chancery, Issued to Henry Guillotte, State Tax-collector 2nd District, Feb'y 15, 1893.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon Henry Guillotte, State tax-collector for the 2d collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill

in chancery filed against him and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on Mr. Henry Guillotte, tax-collector of the 2d collection district of the parish of Orleans, La., by handing the same to him in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
Deputy U. S. Marshal.

85 *Subpœna in Chancery, Issued to H. D. Monnier, State Tax-collector 3d District, Feb'y 15, 1893.*

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon H. D. Monnier, State tax-collector for the 3d collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on

or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on Mr. H. D. Monnier, tax-collector of the 3d collection district of the parish of Orleans, La., by handing the same to him in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By J. E. BOEHLER,
Deputy U. S. Marshal.

86 *Subpœna in Chancery, Issued to W. T. Patton, State Tax-collector 4th District, Feb'y* 15, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon W. T. Patton, State tax-collector for the 4th collection district, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank is complainant and said Board of Assessors and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 15 day of Feb'y, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk*.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the supplemental bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., Feb'y 15, '93, and on the same day, month, and year I served copy hereof on Mr. W. T. Patton, tax-collector of the 4 collection district of the parish of Orleans, La., by handing the same to him in person, in the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

87 *Answer of Board of Assessors, City of New Orleans, Attorney General, and Tax-collectors to Rule of Citizens' Bank to File Supplemental Bill.*

Filed Feb'y 15, 1893.

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et als.*
} No. 12112.

Now come the board of assessors for the parish of Orleans and the city of New Orleans and the attorney general and the tax-collectors of the 1st, 2nd, 3rd, and 4th districts, and for cause why plaintiff should not be allowed to file a supplemental bill and an amended and supplemental bill herein says:

1st. That this controversy being entirely between citizens of the same State, namely, between citizens of the State of Louisiana, and no Federal question being presented in said supplemental bill and said amended and supplemental bill, this court is without jurisdiction to consider or determine the matters set forth in said supplemental bill and said amended and supplemental bill.

2nd. That even if this court had jurisdiction as to the matters averred in said supplemental bill and said amended and supplemental bill (which, however, is not admitted, but, on the contrary, this court's want of jurisdiction as to the matters averred in said supplemental bill and said amended and supplemental bill is insisted on), the said supplemental bill and said amended and supplemental bill state a new case entirely different from the original bill and inconsistent therewith, and the averments of said supplemental bill and said amended and supplemental bill present no lawful cause of supplement.

Wherefore the said board and said city and said attorney general and said tax-collectors pray that this court will refuse to
88 allow said supplemental bill and said amended and supplemental bill to be filed or to be received as part of this case.

(Signed) J. M. GLEASON,
Pres't State Board of Assessors, Parish of Orleans.

[SEAL.]

JOHN FITZPATRICK, *Mayor.*
M. J. CUNNINGHAM,
Att'y Gen'l,
R. LYONS,
Solicitor for State Tax-collectors,
(Signed) E. A. O'SULLIVAN,
City Attorney,
H'Y RENSHAW,
Assistant City Attorney,
Solicitors for Board of Assessors and for City of New Orleans.

Hearing and Submission of Rule to File Supplemental Bill.

Extract from the Minutes, February 15, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The rule taken by complainant to file a supplemental bill herein came on this day to be heard, Henry C. Miller appearing for the complainant, E. A. O'Sullivan and H'y Renshaw for the city of N. O. & board of assessors, R. Lyons for State tax-collectors, and was argued and submitted.

Order Refusing Leave to File 1st Supplemental Bill.

Entered and filed February 22, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112. In Equity.

89 This cause came on to be heard upon the rule taken by the complainant January 5, 1893, to file a supplemental bill presented on that date urging objections and grounds of defence against certain supplemental assessments and assessment-rolls, and, after argument from the solicitors for the parties, was submitted.

On consideration thereof it is ordered that the rule to file said supplemental bill of Jan'y 5, 1893, be refused.

It is further ordered that the second supplemental bill presented by complainant Feb'y 11, 1893, be allowed to be filed.

(Signed) EDWARD C. BILLINGS, *Judge.*

New Orleans, Feb'y 22, 1893.

Supplemental Bill.

Filed March 1, 1893.

To the honorable the circuit court of the United States in and for the fifth circuit and eastern district of Louisiana:

Your orator, The Citizens' Bank of Louisiana, exhibits this its supplemental bill in the suit of The Citizens' Bank *vs.* The Board of Assessors *et als.*, No. — of the docket of this court, and your orator complains and says—

That J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibaut, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. W. Connely, John H. Clack, — defendants herein, being respectively sheriffs of the parishes as follows, to wit, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Pointe Coupée, St. Bernard, St. Charles, St. Helena, Terrebonne, West Feliciana.

And thereupon your orator complains and says that your orator is the owner of property in the above-named parishes, all in
90 the eastern district of Louisiana and within the jurisdiction of this court.

That by the act No. 106 of 1890 the office of assessor was created for each of said parishes, with power to assess for the State and parish taxation all the property belonging to banks, corporations, and individuals, and the sheriffs, one for each of said parishes, are directed to enforce payment of said taxes so assessed by the seizure and sale of the property on which said taxes are assessed, and now your orator shows that notwithstanding the complaint and against the protest of your orator that its property is not subject to taxation, but is exempt from all taxation, State, parish, or municipal, said assessors, under color of said act No. 106 of 1890 and of 1880 and of the articles in the State constitution referred to in the original bill, avow their purpose and are about to assess and in certain of said parishes have already assessed for State and parish taxes the property of your orator in said parishes, and have avowed their purpose and are about to record and have already recorded said assessments in certain of said parishes in the office of the parish recorder of the parish in which the property aforesaid is situated so as to cloud the title of your orator with an asserted lien arising from said assessment, and the taxes so assessed exceed, exclusive of interest and costs, two thousand dollars, and all of which is more fully shown by the exhibit herewith filed, exhibiting the property of your orator and the value thereof in said parishes on which said assessors claim to be entitled to levy said illegal taxes, and your orator shows that the sheriffs of said parishes, claiming to act under color of said act of 1890 and other acts and the articles of the State constitution aforesaid and against the remonstrances and protest of your
91 orator that its property is not liable to taxation and is exempt under its charter, now avow their purpose and are about to seize and sell the aforesaid property of your orator for the payment of said illegal taxes, and your orator shows that, as set forth in the original bill, its charter and all the immunities and privileges, including the aforesaid exemption from taxation until 1911 of the capital, property, and shares of stock of your orator, constitutes a contract between the State, stipulating for itself as well as for each of the aforesaid parishes and the local government thereof, and your orator and its shareholders, and said contract is protected by the Constitution of the United States from any change or impairment, whether in the form of provisions inserted in the State constitution or by legislative acts; that each of said articles of the constitution and of said legislative acts under which the defendants herein named claim to act in so far as they or any of them purport or tend to authorize the assessment and taxation of the capital, property, or shares of stock of your orator are each and all void and of no effect because violative of and repugnant to section 10 of article 1st of the Constitution of the United States, prohibiting all legislation impairing the obligations of contracts, and under this protection of the Constitution of the United States your

orator is entitled to relief to prevent the aforesaid unlawful assessment and taxation and seizure and sale of your orator's property to pay said illegal taxes.

To the end, therefore, that the aforesaid sheriffs, defendants named in this supplemental bill, may be enjoined and prohibited from enforcing the payment of said taxes based upon said assessments and from seizing and selling your orator's property for the payment of said illegal taxes, and to the end that the injunction herein asked be decreed to be perpetual, as well *as* against the defendants
92 named herein as against the defendants named in the original bill, and that the aforesaid articles of the State constitution and laws under color of which defendants are acting may be decreed to be inoperative and void, so far as they undertake to direct the assessment and taxation of the aforesaid property of your orator, and that all said assessments may be decreed to be illegal and of no effect, and that the inscriptions thereof in the office of the parish recorder of mortgages be decreed and ordered to be cancelled and erased, and that the aforesaid exemption from taxation of said property may be recognized and adjudged to be valid to the full extent herein set forth:

May it please your honors to allow the filing of this supplemental bill and to grant the writ of subpœna, directed to the defendants named herein, to wit, J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibaut, E. C. Beuker, E. E. Nunez, Lewis Ory, J. H. Womack, A. W. Connelly, John H. Clack, respectively, the sheriffs of the parishes in the eastern district of Louisiana, commanding them to be and appear in this court on the day named in the process, to stand to and abide all decrees that may be rendered herein, and for general relief.

(Signed) HENRY C. MILLER,
HENRY DENIS,
Sol's for Compl't.

Hypolite Laroussini, vice & acting president of the Citizens' Bank of Louisiana, being duly sworn, deposes and says that the allegations contained in the foregoing bill, in so far as they are stated upon affiant's knowledge, are true and correct, and in so far as they are stated upon the information of others he believes them
93 to be correct.

(Signed) H. LAROUSSINI,
Vice & Acting President.

Sworn to and subscribed before me, notary, at New Orleans, Louisiana, this 27th day of February, 1893.

[SEAL.] (Signed) EDGAR GRIMA, *Not. Pub.*

Let this supplemental bill be filed and let the defendants show cause on Saturday, March 11, 1893, at 11 o'clock a. m, why an injunction *pendente lite* should not issue as prayed for, and in the meantime and until the hearing and decision of the motion for an

injunction let a restraining order issue restraining defendants according to the prayer of this bill.

March 1, 1893.

(Signed) EDWARD C. BILLINGS, *Judge.*

94 *Restraining Order to P. E. Lorio.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to P. E. Lorio, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said P. E. Lorio, your agents, attorneys, and servants, and each of you, are hereby commanded and strictly enjoined, under the penalty of the law, that you and
95 each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said P. E. Lorio, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 2 day of the same month and year I served certified copy hereof

on the within-named P. E. Lorio by handing the same to him in person, in the parish of Lafourche, Louisiana, and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

96 *Restraining Order to Lewis Ory.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to Lewis Ory, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said Lewis Ory, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law, that you
97 and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and seizing and from selling your orator's property for the payment of said taxes.

And that you, the said Lewis Ory, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4 day of the same month and year I served certified copy hereof on the within-named Lewis Ory by handing the same to him in person, in the parish of St. Charles, Louisiana, and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

98 *Restraining Order to A. W. Connelly.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to A. W. Connelly, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth: and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said A. W. Connelly, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,
99 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said A. W. Connelly, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the

Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 2 day of the same month and year I served certified copy hereof on the within-named A. W. Connelly by handing the same to him in person, in the parish of Terrebonne, Louisiana, and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

100 *Restraining Order to C. V. Thibaut.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to C. V. Thibaut, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said C. V. Thibaut, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,

101 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said C. V. Thibaut, your agents, attorneys, and

servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4th day of the same month I served copy hereof on Mr. C. V. Thebaut by handing the same to him in person.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. J. GALBRETH,
Deputy U. S. Marshal.

102 *Restraining Order to E. E. Nunez.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to E. E. Nunez, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said E. E. Nunez, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,
103 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said E. E. Nunez, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4th day of the same month and year I served copy hereof on Mr. E. E. Nunez by handing the same to him in person.

(Signed) J. B. DONNALLY,
U. S. Marshal.

104 *Restraining Order to J. H. Womack.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to J. H. Womack, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said J. H. Womack, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,

105 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said J. H. Womack, your agents, attorneys, and

servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 3rd day of the same month and year I served certified copy hereof on J. H. Womack by handing the same to him in person, in the town of Greensburg, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By GEO. E. WILLIAMS,
Deputy U. S. Marshal.

106 *Restraining Order to C. T. Cade.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to C. T. Cade, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said C. T. Cade, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law, that you
107 and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said C. T. Cade, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 2 day of the same month I served copy hereof on the within-named C. T. Cade by handing the same to him in person, in the parish of Iberia, La., 125 miles from New Orleans, La., and leaving the same in his hands.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

108 *Restraining Order to A. A. Browne.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to A. A. Browne, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said A. A. Browne, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law, that you
109 and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and

all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said A. A. Browne, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 3rd day of the same month I served copy hereof on the within-named A. A. Browne by handing the same to him in person, in the parish of Iberville, La., 85 miles from New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

110 *Restraining Order to William L. Langridge.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to William L. Langridge, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a supplemental bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said William L. Langridge, your agents, attorneys, and servants, and each of you are hereby

commanded and strictly enjoined, under the penalty of the
111 law, that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said Wm. L. Langridge, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4th day of the same month and year I served a certified copy hereof on the within-named William L. Langridge by leaving the same at his domicile, in the parish of Jefferson, La., sfx miles from New Orleans, La., in the hands of his wife, Mrs. William L. Langridge, a person apparently above the age of 14 years, at and residing at the domicile of the said William L. Langridge, who informed me that he was absent from home at the time of said service.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

112 *Restraining Order to J. V. Jones.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to J. V. Jones, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an in-

junction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said J. V. Jones, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law, that you
113 and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said J. V. Jones, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4 day of the same month and year I served copy hereof on the within-named J. V. Jones by handing the same *in* him in person, in the parish of East Feliciana, State of Louisiana, 132 miles from the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELANY,
Deputy U. S. Marshal.

114 *Restraining Order to John H. Clack.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to John H. Clack, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted

and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said John H. Clack, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,
115 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said John H. Clack, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4 day of the same month and year I served copy hereof on the within-named John H. Clack by handing the same to him in person, in the parish of West Feliciana, State of Louisiana, 123 miles from the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELANY,
Deputy U. S. Marshal.

116 *Restraining Order to E. C. Benker.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to E. C. Benker, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a bill in equity lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11

day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said E. C. Benker, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,
117 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said E. C. Benker, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 4 day of the same month and year I served copy hereof on the within-named E. C. Benker by leaving the same at his office, in the parish of Pointe Coupée, 142 miles from New Orleans, in the hands of his deputy, Mr. John Bondreau, a person apparently above the age of 14 years, and who represents the said E. C. Benker, and who informed me that the said E. C. Benker was then absent from the parish.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELANY,
Deputy U. S. Marshal.

118 *Restraining Order to J. H. Slaughter.*

Issued March 1, 1893.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The President of the United States to J. H. Slaughter, Greeting:

Whereas it has been represented unto us in our said circuit court on the part of the Citizens' Bank of Louisiana in a bill in equity

lately exhibited against you and each of you touching certain matters and things therein set forth; and whereas the Honorable Edward C. Billings, one of the judges of our said court, upon due consideration thereof, has made and allowed an order in said cause whereby you and each of you are required to show cause on the 11 day of March, 1893, why an injunction should not issue as prayed for in said bill of complaint; and whereas the said judge has granted and allowed an order restraining you and each of you, immediately and forthwith and during the pendency of said motion for an injunction, to the full extent and effect as prayed for in said bill of complaint:

Now, therefore, in consideration of the premises and of the allegations in said bill contained, you, the said J. H. Slaughter, your agents, attorneys, and servants, and each of you are hereby commanded and strictly enjoined, under the penalty of the law,
119 that you and each of you absolutely refrain and desist from enforcing the payment of any and all taxes for 1889, 1890, 1891, and 1892, levied on the property of the Citizens' bank, based on any and all assessments for said years, and from seizing and selling your orator's property for the payment of said taxes.

And that you, the said J. H. Slaughter, your agents, attorneys, and servants, and each of you remain so inhibited and restrained until the further order of our said court in the premises.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1 day of March, in the year of our Lord one thousand eight hundred and ninety-three.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 1, '93, and on the 3 day of the same month and year I served copy hereof on the within-named J. H. Slaughter by leaving the same at his office, in the parish of East Baton Rouge, 89 miles from New Orleans, in the hands of his deputy, Mr. W. H. Blonen, a person apparently above the age of 14 years and who represents the said J. H. Slaughter, and who informed me that the said J. H. Slaughter was then absent from the parish.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELANY,
Deputy U. S. Marshal.

120 *Subpœna in Chancery to C. T. Cade, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon C. T. Cade, sheriff of Iberia parish, Louisiana, to appear before the honorable the judges

of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said C. T. Cade and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 10 day of the same month and year I served copy hereof on the within-named C. T. Cade, sheriff of the parish of New Iberia, by handing the same to him in person, in the parish of New Iberia, 125 miles from the city of New Orleans.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

121 *Subpœna in Chancery to A. W. Connelly, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon A. W. Connelly, sheriff of the parish of Terrebonne, La., to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said A. W. Connelly and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 9th day of the same month and year I served copy hereof on the within-named A. W. Connelly, sheriff of the parish of Terrebonne, by handing the same to him in person, in the parish of Terrebonne, 70 miles from the city of New Orleans.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

122 *Subpœna in Chancery to Lewis Ory, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon Lewis Ory, sheriff of St. Charles parish, of La., to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said Lewis Ory and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk*.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 11 day of the same month and year I served copy hereof on the within-named Louis Ory, sheriff of the parish of St. Charles, by

handing the same to him in person, in the parish of St. Charles, 25 miles from the city of New Orleans.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

123 *Subpœna in Chancery to P. E. Lorio, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon P. E. Lorio, sheriff of Lafourche parish, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said P. E. Lorio and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 9 day of the same month and year I served copy hereof on the within-named P. E. Lorio, sheriff of the parish of Lafourche, by handing the same to him in person, in the parish of Lafourche, 60 miles from the city of New Orleans.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

124 *Subpœna in Chancery to J. V. Jones, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon J. V. Jones, sheriff of East Feliciana parish, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said J. V. Jones and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 4 day of the same month and year I served copy hereof on the within-named J. V. Jones, sh'ff, by handing the same to him in person, in the parish of East Feliciana, State of Louisiana, 132 miles from the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELONY,
Deputy U. S. Marshal.

125 *Subpœna in Chancery to John H. Clack, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon John H. Clack, sheriff of West Feliciana parish, La., to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed

against him and others, wherein The Citizens' Bank of La. is complainant and said John H. Clack and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 4 day of the same month and year I served copy hereof on the within-named John H. Clack, sh'ff *sh'ff*, by handing the same to him in person, in the parish of West Feliciana, State of Louisiana, 123 miles from the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELONY,
Deputy U. S. Marshal.

126 *Subpœna in Chancery to J. H. Slaughter, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon J. H. Slaughter, sheriff of East Baton Rouge parish, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said J. H. Slaughter and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117th year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on

or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 3 day of the same month and year I served copy hereof on the within-named J. H. Slaughter, sheriff of the parish of East Baton Rouge, by leaving the same at his office, in the parish of East Baton Rouge, 89 miles from the city of New Orleans, in the hands of his deputy, Mr. W. H. Blonen, a person apparently above the age of 14 years, representing the said J. H. Slaughter, and who informed me that the said J. H. Slaughter was then absent from the parish.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELONY,
Deputy U. S. Marshal.

127 *Subpœna in Chancery to E. C. Benker, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon E. C. Benker, sheriff of Pointe Coupée parish of Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of Louisiana is complainant and said E. C. Benker and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117th year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk*.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893, otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the 4 day of the same month and year I served copy hereof on the within-named E. C. Benker, sheriff of the parish of Point Coupée, by leaving the same at his office, in the parish of Point Coupée, 142

miles from the city of New Orleans, in the hands of his deputy, Mr. John Bondreaux, a person apparently above the age of 14 years, representing the said E. C. Benker, and who informed me that the said E. C. Benker was then absent from the parish.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELONY,
Deputy U. S. Marshal.

128 *Subpœna in Chancery to C. V. Thibaut, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon C. V. Thibaut, sheriff of the parish of Plaquemine, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America, at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said C. V. Thibaut and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three. and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the — day of the same month and year I served copy hereof on Mr. C. V. Thebaut, sheriff of the parish of Plaquemine, La., by handing the same to him in person.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. J. GALBRETH,
Deputy U. S. Marshal.

129 *Subpœna in Chancery to William L. Langridge, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon William L. Langridge, sheriff of Jefferson parish, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said William L. Langridge and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the — day of the same month and year I served a certified copy hereof on Mr. William L. Langridge, sheriff of the parish of Jefferson, La., by leaving the same at his domicile, in the said parish of Jefferson, La., in the hands of his wife, Mrs. William L. Langridge, a person apparently above the age of 14 years, at and residing at the domicile of the said William L. Langridge, who informed me that the said William L. Langridge was absent from home at the time of the said service.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By JAMES R. PINNIGRE,
Deputy U. S. Marshal.

130 *Subpœna in Chancery to A. A. Browne, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon A. A. Browne, sheriff of

Iberville parish, Louisiana, to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said A. A. Browne and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso.*

(Signed) E. R. HUNT, *Clerk.*

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the — day of the same month and year I served copy hereof on Mr. A. A. Brown, sheriff of the parish of Iberville, La., by handing the same to him in person, at Iberville parish, 85 miles from New Orleans.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By T. S. DELONY, *D'y.*

131 *Subpœna in Chancery to J. H. Womack, Sheriff.*

Issued March 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon J. H. Womack, sheriff of the parish of St. Helena, La., to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said J. H. Womack and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk.*

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the — day of the same month and year I served certified copy hereof on J. H. Womack, sheriff of the parish of St. Helena, by handing the same to him in person, in the town of Greensburg, La., eighty miles from the city of New Orleans, La.

(Signed) J. B. DONNALLY,
U. S. Marshal,
By GEO. E. WILLIAMS,
Deputy U. S. Marshal.

132 *Subpœna in Chancery to E. E. Nunez, Sheriff, Issued March* 2, 1893.

UNITED STATES OF AMERICA:

The President of the United States to the marshal for the eastern district of Louisiana, Greeting:

You are hereby commanded to summon E. E. Nunez, sheriff of St. Bernard parish, La., to appear before the honorable the judges of the fifth judicial circuit of the United States of America at a circuit court to be holden on the first Monday of April, 1893, then and there to answer a supplemental bill in chancery filed against him and others, wherein The Citizens' Bank of La. is complainant and said E. E. Nunez and others are defendants.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States of America, this 2 day of March, in the year of our Lord one thousand eight hundred and ninety-three, and the 117 year of American Independence.

[SEAL.] (Signed) E. R. HUNT, *Clerk*.

The defendant is hereby notified that he is required to enter his appearance in the clerk's office of the United States circuit court on or before the first Monday of April, 1893; otherwise the bill may be taken *pro confesso*.

(Signed) E. R. HUNT, *Clerk*.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., M'ch 2, '93, and on the — day of the same month and year I served copy hereof on Mr. E. E. Nunez, sheriff of the parish of Saint Bernard, La., by handing the same to him in person.

(Signed) J. B. DONNALLY,
U. S. Marshal.

133 *Order: Rule for Injunction Continued Indefinitely.*

Extract from the Minutes.

SATURDAY, *March* 11, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112.

On motion of H. C. Miller, solicitor for the complainant, counsel for defendants being absent, it is ordered that the rule for an injunction *pendente lite* assigned for today herein be continued indefinitely.

Decree Overruling Demurrer of Tax-collectors.

Entered and filed March 20, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12112. In Equity.

This cause came on to be heard at this term upon the demurrer herein filed by C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, State tax-collectors respectively for the 1st, 2nd, 3rd, 4th districts of the parish of Orleans, defendants, and was submitted.

On consideration whereof it is ordered that the demurrer of said defendants be overruled, and that they be allowed until the rule day of April time, in which to file their answer.

(Signed) EDWARD C. BILLINGS, *Judge.*

March 20, 1893.

134 *Appearance of P. O. Lorio, Lewis Ory, & J. H. Womack, Sheriffs, &c.*

Extract from the Chancery Order Book.

MONDAY, *April* 3, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESS*ments.* } No. 12112.

Defendants P. O. Lorio, sheriff of Lafourche parish; Lewis Ory, sheriff of St. Charles parish, and J. H. Womack, sheriff of St. Helena parish, have this day entered their appearance to the complainant's bill of complaint herein.

Notice of Filing of Special Appearance of Lewis Ory, Sheriff, &c.

Extract from the Chancery Order Book.

MONDAY, *April* 3, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

Lewis Ory, sheriff and tax-collector of St. Charles parish, through G. V. Soniat, solicitor, has this day filed a special appearance.

Special Appearance of Lewis Ory, Sheriff of St. Charles Parish.

Filed April 3, 1893.

Circuit Court U. S. A., 5th Judicial District and Eastern Dist. of Louisiana.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

And now comes into this honorable court Lewis Ory, sheriff and tax-collector of the parish of St. Charles, who, reserving to
135 himself and to his constituents all manner of exceptions or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections contained in said bill, pleads as follows: That he reposes and depends entirely upon the attorney general of the State of Louisiana to make all necessary and proper defences for his constituents, but in the event, however, that this honorable court should require a special defence in the case of each sheriff of the State of Louisiana in which properties belonging to the Citizens' bank are situated, he begs that this honorable court grant him a continuance until such time as shall suit the convenience of this court.

(Signed) G. V. SONIAT, *Of Counsel.*

Pro Confesso Against Sheriffs of the Parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Point Coupée, St. Bernard, St. Charles, St. Helena, Terrebonne, & West Feliciana.

Extract from the Chancery Order Book.

WEDNESDAY, *May* 17, 1893.

THE CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

On motion of Henry C. Miller, solicitor for the complainant, and suggesting that the sheriffs and assessors of the parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche,

Plaquemine, Pointe Coupée, St. Bernard, St. Charles, St. Helena, Terrebonne, and West Feliciana have failed to plead, answer, or demur to the supplemental bill of complaint herein and bill—

136 It is ordered that the said supplemental bill filed March 1, 1893, and the bill of complaint herein be taken for confessed as against said defendants.

Motion and Order Appointing E. R. Hunt, Esq., Examiner.

Entered and filed May 17, 1893.

U. S. Circuit Court.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

On motion of Henry C. Miller, solicitor for complainant, it is ordered that E. R. Hunt, Esq., be appointed examiner to take the testimony of the parties herein.

(Signed) EDWARD C. BILLINGS, *Judge.*

N. O., May 17, 1893.

Pro Confesso Against C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton.

Extract from the Chancery Order Book.

WEDNESDAY, *May* 24, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

On motion of Henry C. Miller, solicitor for the complainant, suggesting that the tax-collectors, defendants herein, C. H. Parker, Henry Guillotte, H. D. Monier, W. T. Patton, have failed to answer the bill of complaint and supp'l bill within the time allowed—

It is ordered that the original bill and supplemental bill be taken for confessed as against said defendants.

137 *Demurrer and Answer of City of New Orleans to Supplemental Bill.*

Filed May 29, 1893.

United States Circuit Court, Eastern District of Louisiana.

CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The demurrer of The City of New Orleans (one of the defendants herein) to part and the answer of the said defendant, The City of New Orleans, to the residue of the supplemental bill of complaint of The Citizens' Bank of Louisiana, plaintiff herein.

This defendant, by protestation, not confessing or acknowledging

all or any of the matters and things in the said plaintiff's supplemental bill contained to be true in such manner and form as the same are therein set forth and alleged, as to so much and such part of said supplemental bill as seeks to have the supplemental assessments and supplemental assessment-rolls therein mentioned and the filing thereof in the office of the recorder of mortgages for the parish of Orleans, State of Louisiana, decreed to be void and null because of the manner and amount of said supplemental assessments or of any item thereof, or because of any apprehended method or methods to enforce the payment of taxes based on said supplemental assessments, or because of the place where the said supplemental assessments were made, or because of any reason whatever set forth in said supplemental bill beyond the pretension asserted by plaintiffs of an alleged impairment of an alleged contract with the State of Louisiana for exemption from taxation, as urged in plaintiff's original bill in this case, doth demur and for cause of demurrer doth show that, plaintiff and this defendant being citizens of the State of Louisiana, this honorable court is without juris-
138 diction to consider or determine the matters set forth in said supplemental bill attacking the validity of the said supplemental assessments, said supplemental assessment-rolls, and the said filing thereof, except in so far as the issue of the impairment of the obligation of a contract may be involved, and that, with the exception of the issue of the impairment of said alleged contract as aforesaid, the courts of the State of Louisiana are the only courts having jurisdiction over the matters set out in complainant's said supplemental bill as causes of the invalidity of said supplemental assessments and said supplemental assessment-rolls and of the filing thereof in the office of the recorder of mortgages for the parish of Orleans, State of Louisiana.

Wherefore, and for divers other good causes of demurrer appearing in the said supplemental bill, this defendant prays the judgment of this honorable court whether it shall be compelled to make any answer to such parts of the said bill as it has hereinbefore demurred to.

And said defendant, The City of New Orleans, not waiving its said demurrer, but wholly relying and insisting thereon as to the residue of said bill or such part thereof as it is advised is material or necessary for it to make answer unto, doth answer and say that assessments against complainant have been made for the years 1889, 1890, 1891, and 1892 by the board of assessors for the parish of Orleans against property of plaintiff in said parish of Orleans, State of Louisiana, and against the shares in the capital stock of plaintiff, and that defendant admits that the said assessments for the said years are as follows, to wit: For the year 1889, on the shares of stock, $15.88 per share, and on the property, $70,000.00; for the year 1890, on the shares of stock, $14.58 per share, and on the property, $70,000.00; for the year 1891, on the shares of stock, $90.91 per share, and on the property, $70,000.00; for the —
139 1892, on the shares of stock, $89.58 per share, and on the property, $70,000.00, and this defendant is informed and

believes that said supplemental assessment-rolls have been filed for record in the office of the recorder of mortgages for said parish of Orleans.

And this defendant, further answering, says that it denies that plaintiff is entitled to exemption from taxation, and this defendant avers that the property of plaintiff and the shares in its capital stock are liable to taxation for the reasons set forth in the answer already filed herein by this defendant to the original bill of plaintiff; which answer this defendant adopts and makes part of this present answer as if herein particularly repeated.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith it is by the said supplemental bill charged; without this, that there is any other matter, cause, or thing in the said complainant's said supplemental bill of complaint contained material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied is true to the knowledge and belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

[SEAL.] (Signed) JOHN FITZPATRICK,
Mayor City of New Orleans.

(Signed) E. A. O'SULLIVAN,
City Att'y,

H'Y RENSHAW,
Assistant City Att'y,
Solicitors for the Defendant The City of New Orleans.

I hereby certify that in my opinion the foregoing demurrer
140 is well founded in point of law.

(Signed) E. A. O'SULLIVAN,
City Att'y, of Counsel.

John Fitzpatrick, mayor of the city of New Orleans, being duly sworn, deposes and says that the foregoing demurrer is not interposed for delay.

(Signed) JOHN FITZPATRICK, *Mayor.*

Sworn to and subscribed before me this 23rd day of May, 1893.

[SEAL.] (Signed) CAS. H. SHIELDS, *Not. Pub.*

John Fitzpatrick, mayor of the city of New Orleans, being duly sworn, deposes and says that he has read the foregoing answer and signed the same and knows the contents thereof to be true of his own knowledge except as to the matters therein stated to be on his information and belief, and as to those matters he believes them to be true.

(Signed) JOHN FITZPATRICK, *Mayor.*

Sworn to and subscribed before me this 23rd day of May, 1893.

[SEAL.] (Signed) CAS. H. SHIELDS, *Not. Pub.*

Notice of Filing of Demurrer & Answer of City to Supplemental Bill.

Extract from the Chancery Order Book.

MONDAY, *May* 29, 1893.

CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The City of New Orleans, one of the defendants herein, through E. A. O'Sullivan, city att'y, & H. Renshaw, ass't city att'y, solicitors, has this day filed a demurrer and answer to the residue of the supplemental bill of complaint of the Citizens' Bank of La.

141 Demurrer of board of assessors, parish of Orleans, State tax-collectors for the 1st, 2nd, 3rd, and 4th districts, parish of Orleans, and State tax-collectors for the parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana.

Filed June 3, 1893.

U. S. Circuit Court, Eastern District of Louisiana.

CITIZENS' BANK OF LOUISIANA
versus.
BOARD OF ASSESSORS *et als.* } No. 12112.

The demurrer of the Board of Assessors of the Parish of Orleans and of C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively, State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Landridge, P. E. Lorio, C. V. Thibaut, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, John H. Clack, respectively, sheriffs of the following parishes, to wit, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, defendants herein, to the bill and supplemental bills of complaint of The Citizens' Bank, plaintiff, to part of complaint filed herein, answers of said defendants, Board of Assessors of the Parish of Orleans and of C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively, State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Landridge, P. E. Lorio, C. V. Thibaut, E. C. Benker, E. E. Nunez. Lewis Ory, J. H. Womack, A. M.
142 Connelly, John H. Clack, respectively, sheriffs of the following parishes, to wit, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, and West Feliciana, to the supplemental bills of complaint and the original bill of complaint of The Citizens' Bank of Louisiana, plaintiff herein.

These defendant- respectively, now and at all times hereafter saving to themselves any and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bills contained, for demurrer and answer thereto or to so much thereof as these defendants are advised it is material or necessary for them to demur or to make answer to, and specially reserving the benefit of the demurrer herein previously filed by C. Harrison Parker, Henry Guillotte, Henry D. Monier, and W. T. Patton, and answering because the same is overruled, respectfully say:

These defendants adopt as their demurrer the demurrer herein filed by the city of New Orleans to the supplemental bill of complaint, and they adopt as part of their answers the entire answer filed by the city of New Orleans and the board of assessors of the parish of Orleans to the original bill of complaint, and also the answer of the city of New Orleans to the supplemental bills of complainant.

Further answering, these defendants show that they are informed and believe, and therefore aver, that at the time the Citizens' bank was granted its charter, in 1833 and 1836, and for a long time subsequent thereto there were no levee taxes imposed by the State legislature for the protection of property from overflow; that since then a State levee tax has been imposed and levee districts have
143 been created by the legislature in all the alluvial parishes, with power to levy taxes and force contributions for the purpose of protecting property from destruction by overflow; that all levee taxes and contributions are expended for the purpose of protecting complainant's property, in common with other property subject to overflow, and complainant is legally and equitably bound for this tax expended for the purpose of protecting its property, all of which is situated in the alluvial districts subject to overflow, which levee taxes and contributions are imposed for the special benefit and improvement of such property, and was not contemplated and included in the exemption, if any, granted by the legislature to complainant.

Defendant-, further answering, show that they are informed and believe, and therefore aver, that from the time of the granting of complainant's charter, and particularly from 1880 up to 1892, complainant voluntarily and without protest or objection, except as to valuation, submitted and listed its property for taxation in the several parishes throughout the State; that it has voluntarily and without objection paid all taxes assessed against it throughout the State up to and including the year 1891, and in the parishes of East Baton Rouge and Lafourche also for the year 1892; that therefore complainant is without cause of action except for the taxes of 1892 in those parishes where they have not been paid; that complainant's right to claim exemption from taxation, if it ever existed, which is denied, has been lost by this long acquies-ence in the claim and exercise by the State levee districts and parishes of the right to tax; that the payment by complainant of its taxes since 1880 shows its relinquishment of all claim for its exemption, if any existed, which is denied, in accordance with the terms of act No. 79 of 1880.

Defendants, further answering, show that they are informed
144 and believe, and therefore aver, that under section 56 and 57, page 120, of act No. 106 of 1890 they are entitled to recover from complainant, as costs to be collected with the taxes, ten per cent. (10 %) commission upon all taxes, State, levee district, and parish, due by complainant as attorneys' fee for the defense of this suit.

Wherefore defendants pray that complainant's bill be dismissed and its demand rejected at its costs, including the attorneys' fees of ten per cent. (10%) on the amount of taxes due and unpaid, which defendants pray to have taxed as part of the costs herein, and for general relief.

(Signed) M. J. CUNNINGHAM,
Attorney General,
R. LYONS,
Att'y of State Tax-collectors,
Solicitors for Defendants.

Notice of Filing of Demurrer & Answer of Board of Assessors, &c.

Extract from the Chancery Order Book.

SATURDAY, *June* 3, 1893.

CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

The Board of Assessors of the Parish of Orleans, the State Tax-collectors of the 1st, 2, 3, & 4th Dists. of the Parish of Orleans, and the Sheriffs of the Parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Point Coupée, St. Bernard, St. Charles, St. Helena, Terrebonne, West Feliciana, defendants herein, to the bill and supplemental bills of complaint, through M. J. Cunningham, att'y general, & R. Lyons, have this day filed a demurrer and answer.

145 *Consent to Submit Demurrers.*

Filed June 9, '93.

U. S. Circuit Court.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

The demurrers of the State Tax-collectors and Board of Assessors and of the City of New Orleans are submitted.

June 9th, 18—.

(Signed) HENRY C. MILLER,
For Compl't.
H'Y RENSHAW,
Ass't City Att'y, Solicitor for City of New Orleans.
R. LYONS,
Solicitor for B'd of Assessors & Tax-collectors.

Submission.

Extract from the Minutes.

FRIDAY, *June* 9, 1893.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

This cause came on to be heard upon the demurrer filed by the defendants —— to the supplemental bill of ——, and was submitted by the solicitors for the parties respectively.

Decree Sustaining Demurrers to Part of Supplemental Bill.

Entered and filed June 23, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

146 CITIZENS' BANK OF LOUISIANA
vs.
BOARD OF ASSESSORS *et als.* } No. 12112. In Equity.

This cause having been heretofore heard upon the demurrers of the defendants filed to the residue of the supplemental bill of complaint, being that part of it which seeks to correct errors in the amount of the assessment of taxes by reason of mistaken valuations, and having been considered by the court—

It is ordered, adjudged, and decreed, for the reasons stated in the opinion filed, that the demurrers be sustained, and that that part of the supplemental bill which seeks to correct errors in the amount of the assessment of taxes by reason of mistaken valuations be dismissed at the costs of complainant.

(Signed) EDWARD C. BILLINGS, *Judge.*

June 23, 1893.

Replication to Answers of the City of New Orleans & Board of Assessors to Original and Supplemental Bills.

Filed June 24, 1893.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

The replication of The Citizens' Bank of Louisiana, complainant, to the answers of The City of New Orleans and Board of Assessors to the original and supplemental bills.

This repliant, saving and reserving to itself all and all manner of advantage of exception which may be had and taken to the

manifold errors, uncertainties, and insufficiencies of the an-
147 swers of the said defendants to the original and supplemental bills, for replication thereunto saith that it doth and will aver, maintain, and prove its said bill to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and insufficient in the law to be replied unto by this repliant; without that, that any *order* matter or thing in the said answer contained material or effectual in the law *in the said answer contained material or effectual in the law* to be replied unto and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by its said bill it hath already prayed.

(Signed) HENRY C. MILLER,
Solicitor for Compl't.

Notice of Filing of Replication.

Extract from the Chancery Order Book.

SATURDAY, *June* 24, 1893.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS & *als.* } No. 12112.

The complainant herein, through its solicitor, Henry C. Miller, has this day filed its replication to the answers of the City of New Orleans and Board of Assessors to the original and supplemental bills.

Replication to Answers of the Board of Assessors, State Tax-collectors, and Sheriffs.

Filed June 24, 1893.

148 United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

The replication of The Citizens' Bank of Louisiana, complainant, to the answers of the board of assessors, the State tax-collectors, and sheriffs of the various parishes named as defendants in the bill.

This repliant, saving and reserving to itself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the answers of the said defendants, the board of assessors, the State and parish tax-collectors, the sheriffs of the various parishes named in the bill, does to the original and supplemental bills for replication thereunto *saith* that it doth and will aver, maintain, and prove its said

bill to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is very uncertain, evasive, and insufficient in the law to be replied unto by this repliant; without that, that any *order* matter or thing in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by its said bill it hath already prayed.

(Signed) HENRY C. MILLER,
Solicitor for Compl't.

149 *Notice of Filing of Replication to Answers of the Board of Assessors, the State and Parish Tax-collectors, etc.*

Extract from the Chancery Order Book.

SATURDAY, *June* 24, 1893.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

The complainant herein, through its solicitor, Henry C. Miller, has this day filed its replication to the answers of the board of assessors, the State and parish tax-collectors, the sheriffs of the various parishes named in the bill.

Agreement to Submit to Final Decree.

Filed June 24, 1893.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

This case is submitted to the final decree of the court upon the testimony, documentary and oral, specified in the notes of evidence of the parties hereto, and their admissions and agreements; all objections to testimony withdrawn.

(Signed) HENRY C. MILLER,
Sol. for the Compl't.
E. A. O'SULLIVAN,
City Att'y,
H'Y RENSHAW,
Ass't City Att'y,
Solicitors for Defendants.
R. LYONS,
Solicitor for Def'ts.

Hearing and Submission.

150 Extract from the Minutes, April Term, 1893.

NEW ORLEANS, SATURDAY, *June* 24, 1893.

Court met pursuant to adjournment.
Present: Hon. Edward C. Billings, district judge.

CITIZENS' BANK
vs.
BOARD OF ASSESSORS *et als.* } No. 12112.

This cause came on this day for hearing upon the bill of complaint, supplemental bill, answers, replications, exhibits, and testimony—Henry C. Miller appearing for the complainant; E. A. O'Sullivan, city attorney, and H'y Renshaw, ass't city attorney, for the city of New Orleans; Richard Lyons, for the State tax-collectors and sheriffs, made defendants—whereupon complainant offered the following evidence, viz:

The following acts of the legislature of Louisiana:

The charter of the Citizens' bank of date the 1st of April, 1833, Session Acts, p. 172; the act of the legislature of Louisiana of the 30th of January, 1836, amending the charter of the Citizens' bank, Session Acts of 1836, p. 16; the act No. 141 of 1852, Session Acts, p. 109; the provision in the State constitution of 1852 referring to the Citizens' bank, to wit, article 121; the act No. 246 of 1853, Session Acts, p. 207; the act No. 45 of 1873, Session Acts, p. 97; the act No. 40 of 1874, Session Acts, p. 77; the act No. 79 of 1880, Session Acts, p. —; the act No. 106 of 1890, Session Acts, p. 120.

And it is agreed that all the acts of the legislature or provisions in the constitution of the State referring to the Citizens' bank or having any bearing upon this suit shall be deemed in evi-
151 dence and read from the constitution and statute books without being published in the record: The ordinance of the city No. 5846 and other ordinances from 1889 to 1892 directing the assessment and collection of taxes upon the shares of stock of the banks and imposing licenses upon the banks;

The extracts from the assessment-rolls of the shares of stock of the Citizens' bank and upon its property for the years 1889, 1890, 1891, 1892;

The petitions, answers, and judgments of the third district court, No. — of the docket, and the judgment of the supreme court, the decision of which is in the 32nd Annual, p. 239;

The petitions, the answers, and the judgments of the civil district court in the following-entitled suits:

The Citizens' Bank *vs.* The Board of Assessors, No. 12429 of the docket of the civil district court; The City of New Orleans *vs.* The Citizens' Bank, No. 3629 of the docket of the civil district court; The Citizens' Bank *vs.* The State Tax-collector, No. 20669 of the docket of the civil district court; The Citizens' Bank *vs.* The City of New Orleans, No. 19144 of the docket of the civil district court;

The Citizens' Bank *vs.* The Board of Assessors, No. 20541 of the docket of the civil district court;

The testimony of A. A. Lelong, taken twice; of George W. Nott; of A. A. Aubertin; of George Guinault, and the statements referred to in the testimony;

The compact of 1853 between the mortgage and cash stockholders of the Citizens' bank.

And the following evidence was offered on behalf of The City of New Orleans, defendant, to wit:

Act of April 1st, 1833, of the legislature of Louisiana incorporating the Citizens' bank;

152 Act of January 30th, 1836, of the legislature of Louisiana amendatory and supplementary to the several acts relative to the act to incorporate Citizens' Bank of Louisiana;

Act 141 of 1852 of the legislature of Louisiana;

Act 246 of 1853 of the legislature of Louisiana;

Constitution of Louisiana of 1868;

Constitution of Louisiana of 1879;

Act 79 of 1880 of the legislature of Louisiana;

Copy of notarial act, April 27th, 1881, before Grima, notary public (marked Exhibit "A");

Certificate of secretary of state of Louisiana showing acceptance by Citizens' bank of act 79 of 1880;

Act 85 of 1888 of the legislature of Louisiana;

Act 106 of 1890 of the legislature of Louisiana;

Ordinance of the city of New Orleans No. 5846, C. S.;

Deposition of Charles H. Schenck, marked "D–Y;"

Deposition of A. E. Blackmar, marked "D–Z;"

Document referred to in said depositions of Schenck and Blackmar and marked "X;"

Deposition of Charles H. Schenck, marked D–Y^2;

Deposition of A. E. Blackmar, marked D–Z^2.

And the State tax-collectors for the parish of Orleans and other parishes in the State of Louisiana offered their evidence as follows:

1. Affidavit of J. H. Slaughter, sheriff and tax-collector, parish of East Baton Rouge, marked T. C. 1; also 4 letters from A. A. Lelong to J. H. Slaughter, marked respectively T. C. 2, T. C. 3, T. C. 4, T. C. 5;

2. Affidavit of A. A. Browne, sheriff and tax-collector, parish of Iberville, marked T. C. 6;

153 3. Affidavit of P. E. Lorio, sheriff and tax-collector, parish of Lafourche, marked T. C. 7;

4. Affidavit of C. V. Thibaut, sheriff and tax-collector, parish of Plaquemine, marked T. C. 8;

5. Affidavit of Marc Cognovich, assessor, parish of Plaquemine, marked T. C. 9;

6. Certificate of F. S. Hingle, secretary police jury, parish of Plaquemine, marked T. C. 10;

7. Affidavit of Leonard Arroyo, ex-assessor, parish of Plaquemine, marked T. C. 11;

8. Affidavit and return for assessment made by Edw. H. Lombard, agent of the Citizens' Bank of Louisiana, marked T. C. 12;

9. Copy of newspaper, "The Plaquemines Protector," of date July 18, 1891, showing official minutes of police jury of the parish of Plaquemine held July 6, 1891, marked T. C. 13;

10. Two affidavits of Wm. L. Langridge, sheriff and tax-collector, parish of Jefferson, marked respectively T. C. 14 and T. C. 15; also letter of A. A. Lelong to Austin W. Rountree, dated Nov. 29, 1890, marked T. C. 16;

11. Three returns for assessment made by E. H. Lombard, agent of the Citizens' bank, to O. Besancon, assessor, Jefferson parish, marked respectively T. C. 17, T. C. 18, T. C. 19;

12. Affidavit of A. W. Conerly, sheriff and tax-collector, parish of Terrebonne, marked T. C. 20; also letter of A. A. Lelong to O. Daspit, marked T. C. 21; also sworn return for assessment made by E. H. Lombard, agent of the Citizens' bank, to Claude Duval, assessor of Terrebonne, marked T. C. 22;

13. Affidavit of E. E. Nunez, sheriff and tax-collector, parish of St. Bernard, marked T. C. 23;

14. Affidavit of Lewis Ory, sheriff and tax-collector, parish
154 of St. Charles, and certificate of J. B. Martin, clerk & recorder of that parish, marked T. C. 24;

15. Affidavit of T. T. Baudouin, assessor parish of St. Charles, marked T. C. 25;

16. Affidavit and certificate of J. H. Womack, sheriff and tax-collector, parish of St. Helena, marked T. C. 26; also

Act	5	of extra session	1878,	page 218,
"	103	of	1886.	" 118,
	178	of	1876,	" 120,
	46	of	1877,	" 72,
	44	of	1886,	" 56,
	26	of	1884,	" 30,
	59	of	1886,	" 96,
	33	of	1879,	51,
	93	of	1890,	95,
	95	of	1890,	99,
	79	of	1890.	63,
	13	of	1892,	10,
	14	of	1892,	18,
	89	of	1892,	113,

all of above showing formation of levee districts.

And thereupon the cause was argued by the solicitors for the parties respectively, and submitted, when the court took same under consideration.

Evidence Offered by the Citizens' Bank of Louisiana.

Charter of the Citizens' bank of date the 1st of April, 1833, Session Acts, p. 172; the act of the legislature of Louisiana of
155 the 30th of January, 1836, amending the charter of the Citizens' bank, Session Acts of 1836, p. 16; the act No. 141 of

1852, Session Acts, p. 109; the provision in the State constitution of 1852 referring to the Citizens' bank, to wit, article 121; the act No. 246 of 1853, Session Acts, p. 207; the act No. 45 of 1873, Session Acts, p. 97; the act No. 40 of 1874, Session Acts, p. 77; the act No. 79 of 1880, Session Acts, p. —; the act No. 106 of 1890, Session Acts, p. 120.

To be read from the constitution and statute books without being copied, under agreement.

Ordinance of the city council of the city of New Orleans No. 5846.

Copied at page 62 of this transcript.

Ordinances of the city of New Orleans from 1889 to 1892—being ordinances No. 4109, C. S., Nov. 15, 1889; No. 4921, C. S., Dec. 10, 1890, and No. 5833, council series, Dec. 10, 1891—directing the assessment and collection of taxes upon the shares of stock of the banks and imposing licenses upon the banks.

156 AN ORDINANCE.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 1, 1888.

No. 3375, council series.

An ordinance to levy, collect, and enforce payment of an annual license tax upon all persons, associations of persons or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those who are expressly excepted from such license tax by articles 206 and 207 of the constitution.

SECTION 1. Be it ordained by the council of the city of New Orleans, that there is hereby levied an annual license tax for the year A. D. 1889, upon each person, association or persons, or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those expressly exempt from such license tax by articles 206 and 207 of the constitution.

SEC. 2. Be it further ordained, etc., that on the second day of January, A. D. 1889, the city treasurer shall begin to collect and shall collect as fast as possible from each of the persons or business firms, association of persons and corporations, pursuing within this city any trade, profession, vocation, calling or business, a license tax as hereinafter graduated. All licenses shall be due and collectable during the first two (2) months of said year, and all unpaid licenses shall become delinquent on the first day of March of said year, and all firms who commenced business after that date shall become delinquent unless the license is paid within ten days.

SEC. 3. Be it further ordained, etc., that the annual licenses for the kinds of business hereinafter named, except as afterwards provided, shall be graduated in twenty-five classes.

Manufacturers.

Paragraph 1.—That for carrying on each business of manufacturing not expressly exempted by articles 206 and 207 of the constitution, the license shall be based on gross annual receipts of said business as follows, to wit:

First class. When the said receipts are ten millions of dollars or more, the license shall be eight thousand dollars, $8,000.

Second class. When the said receipts are nine millions of dollars or more and under ten millions of dollars, the license shall be seven thousand dollars, $7,000.

Third class. When the said receipts are eight millions of dollars or more and under nine millions of dollars, the license shall be five thousand six hundred dollars, $5,600.

Fourth class. When the said receipts are seven millions of dollars or more and under eight million dollars, the license shall be forty-nine hundred dollars, $4,900.

Fifth class. When the said receipts are six millions of dollars or more and under seven million dollars, the license shall be forty-two hundred dollars, $4,200.

Sixth class. When the said receipts are five millions of dollars or more and under six million dollars, the license shall be thirty-five hundred dollars, $3,500.

Seventh class. When the said receipts are four millions of dollars or more and under five million dollars, the license shall be twenty-eight hundred dollars, $2,800.

Eighth class. When the said receipts are three millions of dollars or more and under four million dollars, the license shall be twenty-one hundred dollars, $2,100.

Ninth class. When the said receipts are two millions of dollars or more and under three million dollars, the license shall be fourteen hundred dollars, $1,400.

Tenth class. When the said receipts are one million of dollars or more and under two million dollars, the license shall be seven hundred dollars, $700.

Eleventh class. When the said receipts are seven hundred and fifty thousand dollars or more and under one million dollars, the license shall be five hundred and twenty-five dollars, $525.

Twelfth class. When the said receipts are five hundred thousand dollars or more and under seven hundred and fifty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Thirteenth class. When the said receipts are four hundred thousand dollars or more and under five hundred thousand dollars, the license shall be two hundred and eighty dollars, $280.

Fourteenth class. When the said receipts are three hundred thousand dollars or more and under four hundred thousand dollars, the license shall be two hundred and ten dollars, $210.

Fifteenth class. When the said receipts are two hundred thousand dollars or more and under three hundred thousand dollars, the license shall be one hundred and forty dollars, $140.

Sixteenth class. When the said receipts are one hundred and fifty thousand dollars or more and under two hundred thousand dollars, the license shall be one hundred and five dollars, $105.

Seventeenth class. When the said receipts are one hundred thousand dollars or more and less than one hundred and fifty thousand dollars, the license shall be seventy dollars, $70.

Eighteenth class. When the said receipts are ninety-five thousand dollars or more or less than one hundred thousand dollars, the license shall be sixty-five and one-half dollars, $65.50.

Nineteenth class. When the said receipts are ninety thousand dollars or more and less than ninety-five thousand dollars, the license shall be sixty-three dollars, $63.

Twentieth class. When the said receipts are seventy-five thousand dollars or more and under ninety thousand dollars, the license shall be fifty-two and one-half dollars, $52.50.

Twenty-first class. When the said receipts are fifty thousand dollars or more and less than seventy-five thousand dollars, the license shall be thirty-five dollars, $35.

Twenty-second class. When the said receipts are forty thousand dollars or more and less than fifty thousand dollars, the license shall be twenty-eight dollars, $28.

Twenty-third class. When the said receipts are thirty thousand dollars or more and less than forty thousand dollars, the license shall be twenty-one dollars, $21.

Twenty-fourth class. When the said receipts are twenty-five thousand dollars or more and less than thirty thousand dollars, the license shall be nineteen and one-half dollars, $19.50.

Twenty-fifth class. When the said receipts are less than twenty-five thousand dollars, the license shall be fifteen dollars, $15.

Provided, nothing herein shall be construed to apply to the business of grinding meal, ginning cotton or making sugar by any farmer or planter.

Banking.

Paragraph 2.—Be it further ordained, etc., that for each business of carrying on a bank, banking company, association, corporation or agency, the license shall be based on the declared or nominal capital and surplus, whether said capital and surplus is owned or in use or on deposit in this city or elsewhere, as follows, viz:

First class. When the said declared or nominal capital and surplus is five million dollars or more, the license shall be four thousand five hundred dollars, $4,500.

Second class. When the said declared or nominal capital and surplus is four millions of dollars or more and less than five million dollars, the license shall be four thousand dollars, $4,000.

Third class. When the said declared or nominal capital and surplus is three millions of dollars and more and less than four millions of dollars, the license shall be three thousand two hundred dollars, $3,200.

Fourth class. When the said declared or nominal capital and surplus is two millions of dollars or more and less than three mil-

lions of dollars, the license shall be twenty-four hundred dollars, $2,400.

Fifth class. When the said declared or nominal capital and surplus is one million five hundred thousand dollars or more and less than two millions of dollars, the license shall be sixteen hundred dollars, $1,600.

Sixth class. When the said declared or nominal capital and surplus is one million of dollars or more and under one million five hundred thousand dollars, the license shall be twelve hundred dollars, $1,200.

Seventh class. When the said declared or nominal capital and surplus is eight hundred thousand dollars or more and under one million dollars, the license shall be eight hundred dollars, $800.

Eighth class. When said declared or nominal capital and surplus is six hundred thousand dollars or more and under eight hundred thousand dollars, the license shall be six hundred (600) dollars.

Ninth class. When said declared or nominal capital and surplus is four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred and fifty (450) dollars.

Tenth class. When said declared or nominal capital and surplus is three hundred thousand dollars or more and under four hundred thousand dollars, the license shall be three hundred and fifty dollars, $350.

Eleventh class. When said declared or nominal capital and surplus is two hundred thousand dollars or more and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Twelfth class. When said declared or nominal capital and surplus is one hundred thousand dollars or more and less than two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Thirteenth class. When said declared or nominal capital and surplus is fifty thousand dollars or more and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

The declared or nominal capital and surplus as provided in this section, shall be ascertained and based upon the annual statement made in pursuance of existing laws to the State treasurer.

For each business of carrying on a private banking-house, business or agency, there shall be three classes only, and the license shall be based on the total declared capital invested in said business, whether said capital is owned or in use on deposit in this State or elsewhere, as follows:

First class. When said capital is five hundred thousand dollars or more, the license shall be five hundred dollars, $500.

Second class. When said capital is two hundred and fifty thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Third class. When said capital is one hundred and fifty thousand dollars or less, and under two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

SEC. 4. Be it further ordained, etc., that for carrying on the business pursuits known as cotton factorage and commission business, sugar factories, grain and produce commission houses, or any other factorage or commission business, brokerage in money, stocks, bonds, real estate, produce, sugar, cotton or other brokerage business, whether buying or selling for actual spot or future delivery, the license shall be based on the gross annual commissions and brokerage on sales and purchases.

First class. When the gross annual commissions exceed two hundred and fifty thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When the gross annual commissions exceed two hundred thousand dollars and not more than two hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When the gross annual commissions exceed one hundred and seventy-five thousand dollars and not more than two hundred thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When the gross annual commissions exceed one hundred and fifty thousand dollars and not more than one hundred and seventy-five thousand dollars, the license shall be eleven hundred and twenty-five dollars, $1,125.

Fifth class. When the annual gross commissions exceed one hundred and twenty-five thousand dollars and not more than one hundred and fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Sixth class. When the gross annual commissions exceed one hundred thousand dollars and not more than one hundred and twenty-five thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Seventh class. When the annual gross commissions exceed eighty thousand dollars and not more than one hundred thousand dollars, the license shall be six hundred dollars, $600.

Eighth class. When the annual gross commissions exceed sixty-five thousand dollars and are no more than eighty thousand dollars, the license shall be five hundred dollars, $500.

Ninth class. When the annual gross commissions exceed fifty thousand dollars and are no more than sixty-five thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Tenth class. When the annual gross commissions exceed forty thousand dollars and are no more than fifty thousand dollars, the license shall be three hundred dollars, $300.

Eleventh class. When the annual gross commissions exceed thirty thousand dollars and are not more than forty thousand dollars, the license shall be two hundred and twenty-five dollars, $225.

Twelfth class. When the annual gross commissions exceed twenty-five thousand dollars and are no more than thirty thousand dollars, the license shall be one hundred and eighty-seven dollars and fifty cents, $187.50.

Thirteenth class. When the annual gross commissions exceed

twenty thousand dollars and are not more than twenty-five thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fourteenth class. When the annual gross commissions exceed fifteen thousand dollars and are no more than twenty thousand dollars, the license shall be one hundred and twelve dollars and fifty cents, $112.50.

Fifteenth class. When the annual gross commissions exceed ten thousand dollars and are no more than fifteen thousand dollars, the license shall be seventy-five dollars, $75.

Sixteenth class. When the annual gross commissions exceed five thousand dollars and are no more than ten thousand dollars, the license shall be fifty dollars, $50.

Seventeenth class. When the annual gross commissions are five thousand dollars or less, the license shall be twenty-five dollars, $25.

The secretaries of the various cotton, stock and produce
157 exchanges throughout the city shall furnish the city treasurer with a full and complete list of the names of the members of said association, when called upon by the said treasurer. And in case of failure of the said secretary to furnish said list, it shall be the duty of said treasurer to compel them to furnish said list, by serving a simple rule to show cause before any court of competent jurisdiction, and all costs of said rule shall be paid by the defendant in said proceeding.

SEC. 5. Be it further ordained, etc., That each and every pawnbroker or keeper of a loan office whose capital, in actual use, is fifty thousand dollars or more, shall be graded as eighth class, section fourth, the license shall be five hundred dollars, $500; that when the capital in actual use is less than fifty thousand dollars, shall be graded as ninth class, section fourth, the license shall be three hundred and seventy-five dollars, $375.

SEC. 6. That for every wholesale mercantile business, whether as principal, agent or commission by auction, representing foreign merchants, or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are seven millions of dollars or over, the license shall be three thousand five hundred dollars, $3,500.

Second class. When gross sales are six millions five hundred thousand dollars or more, and under seven millions of dollars the licenses shall be three thousand dollars, $3,000.

Third class. When gross sales are six million dollars or more, and under six million five hundred thousand dollars, the license shall be two thousand five hundred dollars, $2,500.

Fourth class. When gross sales are five million five hundred thousand dollars or more and under six million dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are five million- of dollars or more, and under five million five hundred thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When gross sales are four millions of dollars or more,

and under five millions of dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are three millions of dollars or more, and under four million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are two millions of dollars or more, and under two million five hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are one million five hundred thousand dollars or more, and under two million dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are eight hundred thousand dollars or more, and under one million dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are five hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are five hundred thousand dollars or less, and under five hundred thousand dollars, the license shall be one hundred dollars; provided, that the person or persons shall be deemed wholesale dealers unless he or they sell by the original or unbroken package or barrel only; and, provided, further that no person or persons shall be deemed wholesale dealers unless he or they sell to dealers for resale.

If they sell in less quantities than original and unbroken packages or barrels, they shall be considered retail dealers and pay licenses as such. That for every business of selling at retail whether as principal, agent, or commission or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are three millions five hundred thousand dollars or over, the license shall be thirty-five hundred dollars, $3,500.

Second class. When gross sales are three million dollars or more and less than three million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are two million five hundred thousand dollars or more and under three million dollars, the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When gross sales are two million of dollars or more and under two million five hundred thousand dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are one million five hundred thou-

sand dollars or more, and under two millions of dollars the license shall be fifteen hundred dollars, $1,500.

Sixth class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are seven hundred and fifty thousand dollars and under one million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are seven hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are six hundred thousand dollars or more, and under seven hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are two hundred and fifty thousand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are two hundred thousand dollars or more, and under two hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are one hundred thousand dollars or more, and under one hundred and fifty thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are seventy-five thousand dollars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross sales are fifty thousand dollars or more, and under seventy-five thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross sales are forty thousand dollars or more, and under fifty thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When gross sales are thirty thousand dollars or more, and under forty thousand dollars, the license shall be thirty dollars, $30.

Twentieth class. When gross sales are twenty-five thousand dollars or more, and under thirty thousand dollars, the license shall be twenty-five dollars, $25.

Twenty-first class. When gross sales are twenty thousand dollars or more, and less than twenty-five thousand dollars, the license shall be twenty dollars, $20.

Twenty-second class. When gross sales are fifteen thousand dol-

lars or more, and less than twenty thousand dollars, the license shall be fifteen dollars, $15.

Twenty-third class. When gross sales are less than fifteen thousand dollars, the license shall be ten dollars, $10.

Provided, that if any distilled, vinous, malt, or other kinds of mixed liquors be sold in connection with the business of retail merchant, grocer, restaurant, oyster-house, confectionery, or druggist, in less quantities than five gallons the license for such additional business shall be as hereinafter provided for in section eleven of this act, provided further, that no license shall issue to sell liquors in less quantities than five gallons for less than fifty dollars, $50.

Insuring.

SEC. 7. Be it further ordained etc., That each and every insurance company, (society), association, corporation, or other organization or firm, or individual doing and conducting an insurance business of any kind, life, fire, marine, river, accident or other in this city, whether such company, (society), association, or corporation, or other organization, or firm, or individual is located or domiciled here or operating here, through a branch department resident, board, local office, firm, company, corporation or agency of any kind whatsoever, shall pay a separate and distinct license on said business for each company represented, and said licenses shall be based on the gross annual amount of premiums on all risks located within the State and upon risks located in other States or foreign countries, upon which no license has been paid therein as follows, to wit:

First class. When said premiums are three hundred thousand dollars or more, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When said premiums are two hundred and fifty thousand dollars, and less than three hundred thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When said premiums are two hundred thousand dollars and less than two hundred and fifty thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When said premiums are one hundred and fifty thousand dollars, and less than two hundred thousand dollars, the licen-e shall be one thousand dollars, $1,000.

Fifth class. When said premiums are one hundred thousand dollars, and less than one hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Sixth class. When said premiums are eighty thousand dollars, and less than one hundred thousand dollars, the license shall be seven hundred dollars, $700.

Seventh class. When said premiums are seventy thousand dollars and less than eighty thousand dollars the license shall be six hundred and fifty dollars, $650.

Eighth class. When said premiums are sixty thousand dollars, and less than seventy thousand dollars, the license shall be six hundred dollars, $600.

Ninth class. When said premiums are fifty thousand dollars, and less than sixty thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When said premiums are forty thousand dollars and less than fifty thousand dollars, the license shall be five hundred dollars, $500.

Eleventh class. When said premiums are thirty thousand dollars, and less than forty thousand dollars the license shall be four hundred and fifty dollars, $450.

Twelfth class. When said premiums are twenty thousand dollars, and less than thirty thousand dollars, the license shall be four hundred dollars, $400.

Thirteenth class. When said premiums are ten thousand dollars, and less than twenty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Fourteenth class. When said premiums are less than ten thousand dollars the license shall be three hundred dollars, $300.

Provided, that no corporation not incorporated under the laws of the State, nor any foreign society, firm or partnership, shall do business in this city, except through an agent duly authorized and accredited for the purpose of said business, and for all purposes connected with licenses and taxation and service of process, said agent to be appointed by authentic act, and a certified copy of the act to be deposited in the office of the secretary of state. Any person or firm who shall fill up or sign a policy or certificate of insurance on open marine or fire insurance policy, or otherwise issue by a corporation or association, or persons, not located or represented in this State by a legally authorized agent, shall be considered an agent of such corporation or person or association, and shall be liable for all licenses, taxes and penalties enforced by the provisions of this act upon such person, corporation and association, as if represented by a legally appointed agent.

Provided, that nothing herein contained shall apply to mutual aid societies, which pay mutual insurance policies by assessments upon members, whether the same be or be not domiciled in this State.

Carrying and Storing.

SEC. 8. Be it further ordained, etc., That every omnibus or regular coach or herdic business, and for every business of transporting money, merchandise, or other articles, by express or transfer, of operating one or more towboats or tugboats, of keeping a warehouse or storage-room, the license shall be based on the gross annual receipts of said business, as follows: There shall be no class of this business higher than the tenth class; when said receipts are five hundred thousand dollars or more, the license shall be four hundred dollars, $400.

Eleventh class. When the gross annual receipts are four hundred thousand dollars or more, and less than five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When the gross annual receipts are three hundred

thousand dollars or more, and less than four hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When the gross annual receipts are two hundred and fifty thousand dollars or more, and less than three hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When the gross annual receipts are two hundred thousand dollars or more and less than two hundred
158 and fifty thousand dollars the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When the gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When the gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When the gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When the gross annual receipts are twenty-five thousand dollars or more, and less than seventy-five thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When the receipts are less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Provided, that warehouses receiving less than three hundred and fifty dollars per year shall pay no license.

That for every person, association of persons, business firm or corporation, during a storage business of sugar and molasses exclusively, or either of them, the license shall be based on the gross annual receipts of said business, as follows. There shall be nine classes, viz:

First class. When the gross annual receipts are twenty thousand dollars the license shall be one thousand dollars, $1,000.

Second class. When the gross annual receipts are eighteen thousand dollars or more, and less than twenty thousand dollars, the license shall be five hundred dollars, $500.

Third class. When the gross annual receipts are fifteen thousand dollars or more, and less than eighteen thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Fourth class. When the gross annual receipts are twelve thousand five hundred dollars or more, and less than fifteen thousand dollars, the license shall be three hundred and ten dollars, $310.

Fifth class. When the gross annual receipts are ten thousand dollars or more, and less than twelve thousand five hundred dollars, the license shall be two hundred and fifty dollars, $250.

Sixth class. When the gross annual receipts are seven thousand five hundred dollars or more, and less than ten thousand dollars, the license shall be one hundred and eighty dollars, $180.

Seventh class. When the gross annual receipts are four thousand five hundred dollars, or more, and less than seven thousand five

hundred dollars, the license shall be one hundred and fifty dollars, $150.

Eighth class. When the gross annual receipts are three thousand dollars, or more, and less than four thousand five hundred dollars, the license shall be one hundred and ten dollars, $110.

Ninth class. When the gross annual receipts are less than three thousand dollars, the license shall be seventy-five dollars, $75; provided, that for the business of carrying on, operating, or running any horse or steam railroad, or both, for the transportation of passengers within the limits of this city, the annual license shall be based on the annual gross receipts, as follows, viz.:

First class. When the said annual gross receipts are five hundred thousand dollars, or in excess of that amount, the license shall be twenty-five hundred dollars, $2,500.

Second class. When the said annual gross receipts are over four hundred and fifty thousand dollars, and not more than five hundred thousand dollars, the license shall be twenty-two hundred and fifty dollars, $2,250.

Third class. When the said annual gross receipts are over four hundred thousand dollars, and not more than four hundred and fifty thousand dollars, the license shall be two thousand dollars, $2,000.

Fourth class. When the said annual gross receipts are over three hundred and fifty thousand dollars, and not more than four hundred thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Fifth class. When the said annual gross receipts are over three hundred thousand dollars, and not more than three hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When the said annual gross receipts are over two hundred thousand dollars, and not more than three hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When the said annual gross receipts are over one hundred thousand dollars, and not more than two hundred thousand dollars, the licence shall be five hundred dollars, $500.

Eighth class. When the said annual gross receipts are one hundred thousand dollars or less, the license shall be two hundred and fifty dollars, $250.

Miscellaneous.

SEC. 9. Be it further ordained, etc., That for carrying on each business of gaslight, electric light, water works, telegraphing (including local and district telegraph) telephoning, cotton compress or ginnery, saw mills, cotton pickery, slaughter-house, distilling and rectifying alcoholic or malt liquors, brewing ale, beer, porter, or other malt liquors, manufacturing tobacco, cigars or cigarettes, refining sugar and molasses, manufacturing cotton-seed oil, oil cake or cotton-seed meal, the license shall be based on the gross annual receipts of each person, association of persons, business firm or corporation engaged in said business, as follows:

First class. When the said gross annual receipts are two million five hundred thousand dollars and over, the license shall be three thousand five hundred dollars, $3,500.

Second class. When the said gross annual receipts are two million two hundred and fifty thousand dollars or more, and less than two million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When the said gross annual receipts are two millions of dollars or more, and less than two million two hundred and fifty thousand dollars, the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When the said gross annual receipts are one million seven hundred and fifty thousand dollars or more and less than two million dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When the said gross annual receipts are one million five hundred thousand dollars or more and less than one million seven hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When the said gross annual receipts are one million two hundred and fifty thousand dollars or more, and less than one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When the said gross annual receipts are one million dollars or more and less than one million two hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When the said gross annual receipts are seven hundred and fifty thousand dollars or more, and less than one million dollars, the license shall be seven hundred dollars, $700.

Ninth class. When the said gross annual receipts are five hundred thousand dollars or more, and less than seven hundred and fifty thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When the said gross annual receipts are two hundred and fifty thousand dollars or more and less than five hundred thousand dollars, the license shall be $400.

Eleventh class. When the said annual gross receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When the said gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When the said gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When the said gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When the said gross annual receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When the said gross annual receipts are thirty-seven thousand five hundred dollars or more, and less than fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When the said gross annual receipts are twenty-five thousand dollars or more, and less than thirty-seven thousand five hundred dollars, the license shall be fifty dollars, $50.

Eighteenth class. When the gross annual receipts are over twenty thousand dollars, and less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Nineteenth class. When the said gross annual receipts are over fifteen thousand dollars, and less than twenty thousand dollars, the license shall be twenty-five dollars, $25.

Twentieth class. When the said gross annual receipts are less than fifteen thousand dollars, the license shall be fifteen dollars, $15.

SEC. 10. Be it further ordained, etc., That the licenses herein provided for shall be graduated in thirteen classes, or so many thereof as shall be hereinafter indicated, as follows:

Amusements.

That for every business of keeping a theatre, opera-house, amphitheatre, academy of music, a license shall be based upon the quantity of space devoted to spectators, to be calculated by the number of seats, or ordinary space for seats, as folllows, viz:

First class. When the number of seats or spaces are one thousand or more, the license shall be four hundred dollars, ($400.)

Second class. When the number of seats or spaces are seven hundred and fifty or more, and are less than one thousand, the license shall be three hundred dollars ($300).

Third class. When the number of seats or spaces are five hundred or more, and less than seven hundred and fifty, the license shall be two hundred and fifty dollars ($250).

Fourth class. When the said number of seats is less than five hundred, the license shall be one hundred and seventy-five dollars; provided that no business of this class shall be licensed for less than one hundred and seventy-five dollars ($175.00).

That for any place where can-can, clodoche or other similar female dancing or sensation performance or statuary exhibitions are shown, or any other fixed place for either theatrical, musical, minstrel, concert, dancing or variety performance, exhibition, amusement or show, the license shall be one thousand dollars, and nothing in this paragraph shall be construed as licensing or permitting any performance which is prohibited by other laws, ordinances or police regulations. Provided, that nothing in this section shall apply to any respectable and legitimate place of business already paying a license under the provisions of this ordinance, where free concerts

may be given for the entertainment of guests by regularly organized officers only; and provided further, that the provisions of this ordinance shall not apply to private or public concerts given in duly licensed halls or at private houses.

Provided, that no museum, menagerie, circus or other traveling show shall be permitted to make exhibitions within the city of New Orleans unless they have first paid a license, based on the number of attaches, whether proprietors, performers or employés, as follows:

First class. When the number of said persons is one hundred or more, the license shall be five hundred dollars, ($500.)

Second class. When the number of said persons is seventy-five or more, and less than one hundred, the license shall be four hundred dollars, ($400.)

Third class. When the number of said persons is fifty or more, and less than seventy-five, the license shall be three hundred dollars, ($300.)

Fourth class. When the number of said persons is thirty or more, and less than fifty, the license shall be two hundred and fifty dollars, ($250.)

Fifth class. When the number of persons is twenty or more, and less than thirty, the license shall be two hundred dollars, ($200.)

Sixth class. When the number of said persons is ten or more, and less than twenty, the license shall be one hundred and fifty dollars, ($150.)

Seventh class. When the number of said persons is five or more, and less than ten, the license shall be one hundred dollars, ($100.)

Eighth class. When the number of said persons is four, the license shall be seventy-five dollars, ($75.)

Ninth class. When the number of said persons is three, the license shall be fifty dollars, ($50.)

Tenth class. When the number of persons is two, the license shall be forty dollars ($40.)

Eleventh class. When the number is one, the license shall be thirty dollars ($30).

That for every hall where balls or entertainments not above provided for are given, the classification for license shall be as in the first part of this section, but their prices shall be only one-fourth of those provided for in section 10; provided this shall not apply to balls given by private parties or for charitable purposes.

That for each person carrying on the business or calling of selling or dealing in railroad or steamship tickets, whether said tickets are sold on the streets, in the office of the company he represents or that of any other company, shall pay an annual license graded upon the number of companies he represents, to wit: One company, twenty-five dollars ($25); two companies, forty dollars ($40); three or more companies, fifty dollars ($50).

Each and every peddler and hawker shall pay an annual license graded as follows: When traveling on foot, five dollars ($5); when traveling on horseback, ten dollars ($10); when traveling in one-horse vehicle, fifteen dollars ($15); when traveling in two-horse

vehicle, thirty dollars ($30); when traveling on boat, barge or
159 other water craft, one hundred dollars; provided no hawker or peddler whose stock does not exceed in value ten dollars ($10) will be required to pay any license; and provided further, that police officers throughout the city are hereby empowered and directed to cause all peddlers and hawkers to exhibit their city license, and if the peddlers or hawkers fail to produce or exhibit the same, the police officer shall retain their stock of merchandise until said peddler- or haw-ers procure their city licenses.

Sustenance and Refreshment.

SEC. 11. That for every business of keeping a hotel, where lodging and eating are combined, the license shall be based on the number of furnished lodging rooms for guests, as follows, viz:

First class. When said rooms are in number three hundred or more, the license shall be six hundred dollars, $600.

Second class. When said rooms are in number two hundred and twenty-five or more, and less than three hundred, the license shall be five hundred dollars, $500.

Third class. When said rooms are in number one hundred and fifty or more, and less than two hundred and twenty-five, the license shall be three hundred and seventy-five dollars, $375.

Fourth class. When said rooms are in number seventy-five or more, and less than one hundred and fifty, the license shall be three hundred dollars, $300.

Fifth class. When said rooms are in number forty-five or more, and less than seventy-five, the license shall be two hundred dollars, $200.

Sixth class. When said rooms are in number thirty or more, and less than forty-five, the license shall be one hundred and fifty dollars, $150.

Seventh class. When said rooms are in number fifteen or more, and less than thirty, the license shall be one hundred dollars, $100.

Eighth class. When said rooms are in number twelve or more, and less than fifteen, the license shall be seventy-five dollars, $75.

Ninth class. When said rooms are in number nine or more, and less than twelve, the license shall be fifty dollars, $50.

Tenth class. When said rooms are in number six or more, and less than nine, the license shall be forty dollars, $40.

Provided, that no person who keeps a boarding-house, in connection with schools or colleges for the accommodation of students and employés thereof, shall pay any license as boarding-house.

Provided, further, that no license shall be required when the number of said rooms is less than provided for in class ten; that for every business of lodging alone the license shall be estimated on the same basis as for hotels, but graduated at one-half rates; provided, that boarding-houses pay sixty per cent. of the rates of hotels.

That for every business of bar-room, cabaret, coffee-house, café, beer saloon, liquor exchange, drinking saloon, grog shop, beer-house,

beer garden, or other place where anything to be drunk or eaten on the premises is sold directly or indirectly, the license shall be based on the annual gross receipts of said business, as follows, viz:

That for this business there shall be one extra class:

Class A. When said gross annual receipts are fifty thousand dollars ($50,000) or more, for which the license shall be seven hundred and fifty dollars, $750.

First class. When said gross annual receipts are thirty-seven thousand dollars ($37,000) or more, and less than fifty thousand dollars, the license shall be five hundred dollars, $500.

Second class. When said gross annual receipts are twenty-five thousand dollars ($25,000) or more, and less than thirty-seven thousand five hundred dollars, the license shall be four hundred dollars, $400.

Third class. When said gross annual receipts are twenty thousand dollars ($20,000) or more, and less than twenty-five thousand dollars, the license shall be three hundred dollars, $300.

Fourth class. When the gross annual receipts are fifteen thousand dollars ($15,000) or more, and less than twenty thousand dollars, the license shall be two hundred and fifty dollars, $250.

Fifth class. When said gross annual receipts are ten thousand dollars ($10,000) or more, and less than fifteen thousand dollars, the license shall be two hundred dollars, $200.

Sixth class. When said gross annual receipts are seven thousand five hundred dollars ($7,500) or more, and less than ten thousand dollars, the license shall be one hundred and fifty dollars, $150.

Seventh class. When said gross annual receipts are five thousand dollars ($5,000) or more, or less than seven thousand five hundred dollars, the license shall be one hundred dollars, $100.

Eighth class. When said gross annual receipts are two thousand dollars or more, and less than five thousand dollars, for which the license shall be seventy-five dollars, $75.

Ninth class. When said receipts are less than two thousand dollars ($2,000) for which the license shall be fifty dollars, $50.

Provided, no license shall be charged for selling refreshments for charitable or religious purposes; provided, that no establishment selling or giving away, or otherwise disposing of any spirits, wines, alcoholic or malt liquors in less quantities than one pint shall pay less than fifty dollars ($50), provided further, that when any kind of business provided for in this section shall be combined with any business provided for in section ten, the same classification shall be made as prescribed in this section; but the price of the license shall be equal to the license required for each business separately.

That for the business of keeping billiard tables, pigeon-hole, Jenny Lind, pool or bagatelle tables, and ten-pin alleys, from which revenue is derived, a license of ten dollars for each such table or alley shall be paid in addition to any other license due by the establishment in which said tables or alleys may be situated.

Provided, that all persons, associations of persons or business firms and corporations engaged in the sale of soda water, mead, confections, cakes, etc., exclusively, shall be rated as follows:

First class. When the gross sales are ten thousand dollars, or in excess of that amount, the license shall be fifty dollars, $50.

Second class. When the gross sales are eight thousand dollars or more, and less than ten thousand dollars, the license shall be forty dollars, $40.

Third class. When the gross sales are six thousand dollars or more, and under eight thousand dollars, the license shall be thirty dollars, $30.

Fourth class. When the gross sales are four thousand dollars or more, and under six thousand dollars, the license shall be twenty dollars.

Fifth class. When the gross sales are three thousand dollars or more, and under four thousand dollars, the license shall be fifteen dollars, $15.

Sixth class. When the gross sales are less than three thousand dollars, the license shall be ten dollars.

Provided, that this provision shall not apply to places doing the business herein named, where alcoholic, vinous or malt liquors are sold.

Provided further, that druggists, etc., selling soda water, mead, etc., shall be required to take out a license under this act.

Professional and Personal Occupation.

SEC. 12. Be it further ordained, etc., That the annual license for the kinds of business hereinafter named shall be graduated in thirteen classes, as follows, viz:

That for every individual or company carrying on the profession or business agency for steamboats, draying, trucking, keeping cabs, carriages, hacks or horses for hire, undertakers, owners or lessees of toll bridges and ferries, master builders, stevedore- and mechanics, who employ assistance, the license for said profession or occupation:

First class. When said gross annual receipts are twenty thousand dollars or more, the license shall be one hundred and twenty dollars, $120.

Second class. When said gross annual receipts are sixteen thousand dollars, or more, and less than twenty thousand dollars, the license shall be one hundred and five dollars, $105.

Third class. When said gross annual receipts are twelve thousand dollars or more, and less than sixteen thousand dollars, the license shall be ninety-five dollars, $95.

Fourth class. When said gross annual receipts are ten thousand dollars or more, and less than twelve thousand dollars, the license shall be eighty dollars, $80.

Fifth class. When said gross annual receipts are eight thousand dollars or more, and less than ten thousand dollars, the license shall be seventy dollars, $70.

Sixth class. When said gross annual receipts are six thousand dollars or more, and less than eight thousand dollars, the license shall be sixty dollars, $60.

Seventh class. When the said gross annual receipts are five thousand dollars or more, and less than six thousand dollars, the license shall be fifty dollars, $50.

Eighth class. When said gross annual receipts are four thousand dollars or more, and less than five thousand dollars, the license shall be forty dollars, $40.

Ninth class. When said gross annual receipts are three thousand dollars or more, and less than four thousand dollars, the license shall be thirty dollars, $30.

Tenth class. When said gross annual receipts are two thousand dollars or more, and less than three thousand dollars, the license shall be twenty-five dollars, $25.

Eleventh class. When said gross annual receipts are one thousand dollars or more, and less than two thousand dollars, the license shall be twenty dollars, $20.

Twelfth class. When said gross annual receipts are seven hundred and fifty dollars or more, and less than one thousand dollars, the license shall be fifteen dollars, $15.

Thirteenth class. When said gross annual receipts are less than seven hundred and fifty dollars, the license shall be four dollars, $4.

That every individual or individuals carrying on the business or profession of physician, attorney-at-law, editor, dentist, oculist, photographer, agency for publications, freight, ticket, claims, patent rights, and all other business not herein provided for, shall be graded the same as above set forth, but the license shall be one-half of those established by this section; and provided no license shall be issued hereunder for less than $5.

All travelling agents offering any species of merchandise in this city for sale or selling the same by sample or otherwise, shall, if representing one house, firm or business, pay a license of fifty dollars per annum; and for each additional house, firm or business he represents he shall pay an extra license of twenty-five dollars ($25). If representing two houses, firms or businesses, he shall pay a license of seventy-five dollars ($75) per annum. The treasurer is authorized to collect the said licenses of traveling agents. And the treasurer shall be and is hereby authorized and empowered on the refusal of any traveling agent to pay the license as provided for in this act, to seize, without notice, any property he may find belonging to the said traveling agent, or found in his possession, and sell the same to satisfy the license, penalties and costs, as herein provided.

SEC. 13. Be it further ordained, etc., That when any two or more kinds of business are combined, except as *as* herein expressly provided for, there shall be a separate license required for each kind of business.

SEC. 14. Be it further ordained, etc., That the annual receipts, capital sales and premiums in this act, referred to as a basis of license, are those for the year for which the license is granted; the standard for their estimation shall be *prima facie* of the preceding

year if the business has been conducted previously by the same parties or by parties to whom they claim to be successors.

If the firm or company be new the amount of gross sales for the first two months shall be considered the basis, and six times that amount shall be estimated as the annual receipts of such business. Provided, that any person commencing business after the first of July shall pay one-half the above rates.

—. Be it further ordained, etc., That the business of the previous year, as also the actual condition and results of business of the current year, for new firms, associations or corporations, for the purpose of calculating license, shall be ascertained by the treasurer in the sworn statement of the person or persons in interest, his or their duly authorized agent or officer, made before the treasurer or his deputy: Provided, that if the treasurer be not satisfied with the said sworn statements, he shall traverse the same by a rule, taken in proper court, as provided in the constitution, which rule shall be tried summarily, whether an answer be thereto filed or not. On the trial of said rule, the books and written entries and memoranda of said person or persons, firms, companies, corporations, or parties, shall be brought into court and subjected to the inspection and examination of the court, the officer who took the rule, and such experts as he may employ or the court may appoint: Provided, that this inspection shall not be construed as entitling the defendant to introduce in evidence said books and documents any more than he would have been without such inspection: Provided also, that the license shall issue in accordance with the said sworn statement, notwithstanding the prospect of pendency of the rule, and the final rectification shall be made as ordered by the court.

SEC. 16. Be it further ordained, etc., That if any business shall be conducted without a license, in cases herein provided, the officer whose duty it is to issue licenses, shall through the attorney herein provided for, on motion in the proper courts as provided in the constitution, and which shall be without deposit for advance costs, take a rule on the party or parties doing such business, to show cause on the fifth day, exclusive of holidays, after the service thereof, which may be tried out of term time and in chambers, and shall always be tried by preference, why said party or parties should not pay the amount of the license claimed and penalties, or be ordered to cease from further pursuits of said business until after having obtained a license; and in case said rule is made absolute
the order thereon rendered shall be considered a judgment
160 in favor of the city, for the amount decreed, to be due by the
defendant for license and penalty and costs heretofore and hereinafter provided for, and shall be executed in the same manner as other judgments, and every violation of the order of the court shall be considered as a contempt thereof and punished according to law.

It is hereby expressly provided that each person, association of persons, business firm, or corporation, required to make out a license under this act, shall be required to post the same in a conspicuous place, in his or their place of business, under a penalty of not less

than ten nor more than one hundred dollars, recoverable by the treasurer before any court of competent jurisdiction; and it shall be the duty of the treasurer to visit in person or by deputies, the several places of business herein mentioned, and ascertain that the provisions of this section are strictly carried out.

SEC. 17. Be it further ordained, etc., That the only legal evidence that a license has been paid shall be the appropriate form of license issued by the treasurer, and no receipts issued in place of the license itself shall be valid, and this clause shall be construed to prevent the treasurer from issuing a receipt, in lieu of the appropriate form, to any person, association of persons, or business corporations. Provided, that nothing herein contained shall be so construed as to exclude oral evidence of lost or destroyed licenses.

SEC. 18. Be it further ordained, etc., That the treasurer shall prepare and keep a book in which he shall record or file the statements made under oath of all persons, associations of persons, business firms or corporations, who may apply for license to pursue any trade, profession, vocation, calling or business under this act.

SEC. 19. Be it further ordained, etc., That the city treasurer charged with the collection of taxes is hereby empowered and required to administer oath to any person, president or proper officer, or agent of any association of persons, business firms or corporations, applying for license under this act; and the treasurer, as aforesaid, or any notary public or other officer of the State empowered to administer oaths, who shall sign any jurat or certify to the correctness of any oath without administering the said oath in person to the applicants, shall be deemed guilty of a misdemeanor, and on conviction be dealt with in accordance with existing laws relative to the dismissal from office of such several officers, and in addition to which they shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars. That when the oath is taken before the treasurer, no charge shall be made for the same. Any false swearing as to the gross receipts of any person or persons, or corporations, through their president or proper officer or agent applying for license, shall constitute the crime of perjury, to be punished as directed by the existing criminal laws of the State.

SEC. 20. Be it further ordained, etc., That the treasurer is hereby required to keep a license register, in which he shall enter the names of every person, association of persons, business firms or corporations with the trade, profession, vocation, calling or business pursued, the class and graduation of the same, the amount of license thereon, and the date of collection or payment thereof. On the 31st day of December of each and every year the said treasurer shall make out and forward to the comptroller a full and complete transcript of said license register, a copy of which transcript the comptroller shall lay before the city council at its first regular session of each year, and shall file the same in his office for his future reference or use.

SEC. 21. Be it further ordained, etc., That the treasurer upon violating any of the provisions of this act, or who shall wilfully rate any person, association of persons, or business firms and corpora-

tions, at a less graduation than the law contemplates, or who shall issue to any of said persons, association of persons, or business firms and corporations, a license for a less sum than that corresponding with their graduation shall be deemed guilty of a misdemeanor in office, and shall on conviction before a court of competent authority, be summarily dismissed therefrom.

On the first day of March of each year the treasurer shall deliver to the city council a complete list of all the delinquent license-payers, together with their location and kind of business, and the city attorney shall immediately proceed to collect same, in accordance with this ordinance and if not collected within thirty days from date of delivery of list by the city treasurer, it shall be the duty of said city attorney to render a written report giving reason for non-collection to the council.

SEC. 22. Be it further ordained, etc., That all unpaid licenses shall be subjected to a penalty of two per cent. per month, from the first day of March until date of payment, and the treasurer shall collect said license and penalty in the manner provided by existing laws and keep the penalty account separate and distinct from the general fund.

SEC. 23. Be it further ordained, etc., That all gross receipts, derived from any mercantile business or occupation whatsoever as hereinafter provided, whether earned within or without the State, shall form the proper basis upon which all licenses shall be assessed and collected by the treasurer.

SEC. 24. Be it further ordained, etc., That a person, firm or company having more than one place of business, shall pay a separate license for each place of business.

SEC. 25. Be it further ordained, etc., That no free permits shall be granted except to maimed peddlers, or crippled persons, or persons incapacitated from performing hard work. Any violation of this section shall be punishable by such fine as may be deemed proper by the recorder of the district in which the offence was committed.

SEC. 26. Be it further ordained, etc., That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, and that this ordinance shall have full force and effect from and after its promulgation.

Adopted by the council of the city of New Orleans, November 27, 1888.

ED. T. MANNING,
Clerk of Council.

Approved December 1, 1888.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.

WRIGHT SCHAUMBURG,
Secretary to the Mayor.

161 AN ORDINANCE.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Nov.* 15, 1889.

No. 4109, council series.

An ordinance, to levy, collect and enforce payment of an annual license tax upon all persons, associations of persons, or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those who are expressly excepted from such license tax by articles 206 and 207 of the constitution.

SECTION 1. Be it ordained by the council of the city of New Orleans, That there is hereby levied an annual license tax for the year A. D. 1890, upon each person, association or persons, or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those expressly exempt from such license tax by articles 206 and 207 of the constitution.

SEC. 2. Be it further ordained, etc., That on the second day of January, A. D. 1890, the city treasurer shall begin to collect and shall collect as fast as possible from each of the persons or business firms, association of persons and corporations, pursuing within this city any trade, profession, vocation, calling or business, a license tax as hereinafter graduated. All licenses shall be due and collectable during the first two (2) months of said year, and all unpaid licenses shall become delinquent on the first day of March of said year, and all firms who commenced business after that date shall become delinquent unless the license is paid within ten days.

SEC. 3. Be it further ordained, etc., That the annual licenses for the kinds of business hereinafter named, except as afterwards provided, shall be graduated in twenty-five classes.

Manufacturers.

Paragraph 1. That for carrying on each business of manufacturing not expressly exempted by articles 206 and 207 of the constitution the license shall be based on gross annual receipts of said business as follows, to wit:

First class. When the said receipts are ten millions of dollars or more, the license shall be eight thousand dollars, $8,000.

Second class. When the said receipts are nine millions of dollars or more, and under ten millions of dollars, the license shall be seven thousand dollars, $7,000.

Third class. When the said receipts are eight millions of dollars or more, and under nine millions of dollars, the license shall be five thousand six hundred dollars, $5,600.

Fourth class. When the said receipts are seven millions of dollars or more, and under eight million dollars, the license shall be forty-nine hundred dollars, $4,900.

Fifth class. When the said receipts are six millions of dollars or more, and under seven million dollars, the license shall be forty-two hundred dollars, $4,200.

Sixth class. When the said receipts are five millions of dollars or more, and under six million dollars, the license shall be thirty-five hundred dollars, $3,500.

Seventh class. When the said receipts are four millions of dollars or more and under five million dollars, the license shall be twenty-eight hundred dollars, $2,800.

Eighth class. When the said receipts are three millions of dollars or more, and under four million dollars, the license shall be twenty-one hundred dollars, $2,100.

Ninth class. When the said receipts are two millions of dollars or more, and under three million dollars, the license shall be fourteen hundred dollars, $1,400.

Tenth class. When the said receipts are one million of dollars or more, and under two million dollars, the license shall be seven hundred dollars, $700.

Eleventh class. When the said receipts are seven hundred and fifty thousand dollars or more, and under one million dollars, the license shall be five hundred and twenty-five dollars, $525.

Twelfth class. When the said receipts are five hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Thirteenth class. When the said receipts are four hundred thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and eighty dollars, $280.

Fourteenth class. When the said receipts are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be two hundred and ten dollars, $210.

Fifteenth class. When the said receipts are two hundred thousand dollars or more, and under three hundred thousand dollars, the license shall be one hundred and forty dollars, $140.

Sixteenth class. When the said receipts are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and five dollars, $105.

Seventeenth class. When the said receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy dollars, $70.

Eighteenth class. When the said receipts are ninety-five thousand dollars or more, or less than one hundred thousand dollars, the license shall be sixty-five and one-half dollars, $65.50.

Nineteenth class. When the said receipts are ninety thousand dollars or more, and less than ninety-five thousand dollars, the license shall be sixty-three dollars, $63.

Twentieth class. When the said receipts are seventy-five thousand dollars or more, and under ninety thousand dollars, the license shall be fifty-two and one-half dollars, $52.50.

Twenty-first class. When the said receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be thirty-five dollars, $35.

Twenty-second class. When the said receipts are forty thousand dollars or more, and less than fifty thousand dollars, the license shall be twenty-eight dollars, $28.

Twenty-third class. When the said receipts are thirty thousand dollars or more, and less than forty thousand dollars, the license shall be twenty-one dollars, $21.

Twenty-fourth class. When the said receipts are twenty-five thousand dollars or more, and less than thirty thousand dollars, the license shall be nineteen and one-half dollars, $19.50.

Twenty-fifth class. When the said receipts are less than twenty-five thousand dollars, the license shall be fifteen dollars, $15.

Provided, nothing herein shall be construed to apply to the business of grinding meal, ginning cotton or making sugar by any farmer or planter.

Banking.

Paragraph 2. Be it further ordained, etc., That for each business of carrying on a bank, banking company, association, corporation, or agency, the license shall be based on the declared or nominal capital and surplus, whether said capital and surplus is owned, or in use, or on deposit in this city or elsewhere, as follows, viz:

First class. When the said declared or nominal capital and surplus is five million dollars or more, the license shall be four thousand five hundred dollars, $4,500.

Second class. When the said declared or nominal capital and surplus is four millions of dollars or more, and less than five million dollars, the license shall be four thousand dollars, $4,000.

Third class. When the said declared or nominal capital and surplus is three millions of dollars and more, and less than four million- of dollars, the license shall be three thousand two hundred dollars, $3,200.

Fourth class. When the said declared or nominal capital and surplus is two millions of dollars or more, and less than three millions of dollars, the license shall be twenty-four hundred dollars, $2,400.

Fifth class. When the said declared or nominal capital and surplus is one million five hundred thousand dollars or more, and less than two millions of dollars, the license shall be sixteen hundred dollars, $1,600.

Sixth class. When the said declared or nominal capital and surplus is one million of dollars or more, and under one million five hundred thousand dollars, the license shall be twelve hundred dollars, $1,200.

Seventh class. When the said declared or nominal capital and surplus is eight hundred thousand dollars or more, and under one million dollars, the license shall be eight hundred dollars, $800.

Eighth class. When said declared or nominal capital and surplus is six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be six hundred dollars, $600.

Ninth class. When said declared or nominal capital and surplus is four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred and fifty dollars, $450.

Tenth class. When said declared or nominal capital and surplus

is three hundred thousand dollars or more and under four hundred thousand dollars, the license shall be three hundred and fifty dollars, $350.

Eleventh class. When said declared or nominal capital and surplus is two hundred thousand dollars or more and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Twelfth class. When said declared or nominal capital and surplus is one hundred thousand dollars or more and less than two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Thirteenth class. When said declared or nominal capital and surplus is fifty thousand dollars or more and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

The declared or nominal capital and surplus as provided in this section, shall be ascertained and based upon the annual statement made in pursuance of existing laws to the State treasurer.

For each business of carrying on a private banking-house, business or agency, there shall be three classes only, and the license shall be based on the total declared capital invested in said business, whether said capital is owned or in use on deposit in this State or elsewhere, as follows:

First class. When said capital is five hundred thousand dollars or more, the license shall be five hundred dollars, $500.

Second class. When said capital is two hundred and fifty thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Third class. When said capital is one hundred and fifty thousand dollars or less and under two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

SEC. 4. Be it further ordained, etc., That for carrying on the business pursuits known as cotton factorage and commission business, sugar factories, grain and produce commission houses, or any other factorage or commission business, brokerage in money, stocks, bonds, real estate, produce, sugar, cotton or other brokerage business, whether buying or selling for actual spot or future delivery, the license shall be based on the gross annual commissions and brokerage on sales and purchases.

First class. When the gross annual commissions exceed two hundred and fifty thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When the gross annual commissions exceed two hundred thousand dollars and not more than two hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When the gross annual commissions exceed one hundred and seventy-five thousand dollars, and not more than two hundred thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When the gross annual commissions exceed one hundred and fifty thousand dollars, and not more than one hun-

dred and seventy-five thousand dollars, the license shall be eleven hundred and twenty-five dollars, $1,125.

Fifth class. When the annual gross commissions exceed one hundred and twenty-five thousand dollars and not more than one hundred and fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Sixth class. When the gross annual commissions exceed one hundred thousand dollars and not more than one hundred and twenty-five thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Seventh class. When the annual gross commissions exceed eighty thousand dollars, and not more than one hundred thousand dollars, the license shall be six hundred dollars, $600.

Eighth class. When the annual gross commissions exceed sixty-five thousand dollars, and are not more than eighty thousand dollars, the license shall be five hundred dollars, $500.

Ninth class. When the annual gross commissions exceed fifty thousand dollars and are no more than sixty-five thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Tenth class. When the annual gross commissions exceed forty thousand dollars, and are no more than fifty thousand dollars, the license shall be three hundred dollars, $300.

Eleventh class. When the annual gross commissions exceed thirty thousand dollars, and are not more than forty thousand dollars, the license shall be two hundred and twenty-five dollars, $225.

Twelfth class. When the annual gross commissions exceed twenty-five thousand dollars, and are not more than thirty thousand dollars, the license shall be one hundred and eighty-seven dollars and fifty cents, $187.50.

Thirteenth class. When the annual gross commissions exceed twenty thousand dollars, and are not more than twenty-five thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fourteenth class. When the annual gross commissions exceed fifteen thousand dollars, and are not more than twenty thousand dollars, the license shall be one hundred and twelve dollars and fifty cents, $112.50.

Fifteenth class. When the annual gross commissions exceed ten thousand dollars, and are not more than fifteen thousand dollars, the license shall be seventy-five dollars, $75.

Sixteenth class. When the annual gross commissions exceed five thousand dollars, and no more than ten thousand dollars, the license shall be fifty dollars, $50.

Seventeenth class. When the annual gross commissions are five thousand dollars or less, the license shall be twenty-five dollars, $25.

162 The secretaries of the various cotton, stock and produce exchanges throughout the city shall furnish the city treasurer with a full and complete list of the names of the members of the said association, when called upon by the said treasurer. And in case of failure of the said secretary to furnish said list, it shall be the duty of said treasurer to compel them to furnish said

list, by serving a simple rule to show cause, before any court of competent jurisdiction, and all costs of said rule shall be paid by the defendant in said proceeding.

SEC. 5. Be it further ordained, etc., That each and every paw-broker or keeper of a loan office whose capital, in actual use, is fifty thousand dollars or more, shall be graded as eighth class, section fourth, the license shall be five hundred dollars, $500; that when the capital in use is less than fifty thousand dollars, shall be graded as ninth class, section fourth, the license shall be three hundred and seventy-five dollars, $375.

SEC. 6. That for every wholesale mercantile business, whether as principal, agent or commission by auction, representing foreign merchants or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are seven millions of dollars or over, the license shall be three thousand five hundred dollars, $3,500.

Second class. When gross sales are six millions five hundred thousand dollars or more, and under seven millions of dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are six million dollars or more, and under six million five hundred thousand dollars, the license shall be two thousand five hundred dollars, $2,500.

Fourth class. When the gross sales are five million five hundred thousand dollars or more and under six million dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are five million- of dollars or more, and under five million five hundred thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When gross sales are four millions of dollars or more, and under five millions of dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are three millions os dollars or more, and under four million dollars, the license shall be seven hundred and *and* fifty dollars, $750.

Eighth class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are two millions of dollars or more, and under two million five hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are one million five hundred thousand dollars or moee, and under two million dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are eight hundred thousand dollars or more, and under one million dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are six hundred thousand

dollars or more, and under eight hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are five hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are five hundred thousand dollars or less, and under five hundred thousand dollars, the license shall be one hundred dollars; provided that the person or persons shall be deemed wholesale dealers unless he or they sell by the original or unbroken package or barrel only; and, provided further, that no person or persons shall be deemed wholesale dealers unless he or they sell to dealers for resale.

If they sell in less quantities than original and unbroken packages or barrels, they shall be considered retail dealers and pay license, as such. That for every business of selling at retail, whether as principal, agent, or commission or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are three millions five hundred thousand dollars or over, the license shall be thirty-five hundred dollars, $3,500.

Second class. When gross sales are three million dollars or more, and less than three million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When gross sales are two million- of dollars or more, and under two million five hundred thousand dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are one million five hundred thousand dollars or more, and under two millions of dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are seven hundred and fifty thousand dollars and under one million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are seven hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are six hundred thousand dollars or more, and under seven hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are two hundred and fifty thou-

sand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are two hundred thousand dollars or more, and under two hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are one hundred thousand dollars or more, and under one hundred and fifty thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are seventy-five thousand dollars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross sales are fifty thousand dollars or more, and under seventy-five thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross sales are forty thousand dollars or more, and under fifty thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When gross sales are thirty thousand dollars or more, and under forty thousand dollars, the license shall be thirty dollars, $30.

Twentieth class. When gross sales are twenty-five thousand dollars or more, and under thirty thousand dollars, the license shall be twenty-five dollars, $25.

Twenty-first class. When gross sales are twenty thousand dollars or more, and less than twenty-five thousand dollars, the license shall be twenty dollars, $20.

Twenty-second class. When gross sales are fifteen thousand dollars or more, and less than twenty thousand dollars, the license shall be fifteen dollars, $15.

Twenty-third class. When gross sales are less than fifteen thousand dollars, the license shall be ten dollars, $10.

Provided, that if any distilled, vinous, malt, or other kinds of mixed liquors be sold in connection with the business of retail merchant, grocer, restaurant, oyster-house, confectionery, or druggist, in less quantities than five gallons the license for such additional business shall be as hereinafter provided for in section eleven of this act, provided further, that no license shall issue to sell liquors in less quantities than five gallons for less than fifty dollars, $50.

Insuring.

SEC. 7. Be it further ordained, etc, That each and every insurance company (society), association, corporation, or other organization or firm, or individual doing and conducting an insurance business of any kind, life, fire, marine, river accident or other in this city, whether such company, (society), association, or corporation, or other organization, or firm, or individual is located or domiciled here or operating here, through a branch department resident,

board, local office, firm, company, corporation or agency of any kind whatsoever, shall pay a separate and distinct license on said business for each company represented, and said licenses shall be based on the gross annual amount of premiums on all risks located within the State and upon risks located in other States or foreign countries, upon which no license has been paid therein as follows, to wit:

First class. When said premiums are three hundred thousand dollars or more, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When said premiums are two hundred and fifty thousand dollars, and less than three hundred thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When said premiums are two hundred thousand dollars, and less than two hundred and fifty thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When said premiums are one hundred and fifty thousand dollars, and less than two hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Fifth class. When said premiums are one hundred thousand dollars, and less than one hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Sixth class. When said premiums are eighty thousand dollars, and less than one hundred thousand dollars, the license shall be seven hundred dollars, $700.

Seventh class. When said premiums are seventy thousand dollars, and less than eighty thousand dollars, the license shall be six hundred and fifty dollars, $650.

Eighth class. When said premiums are sixty thousand dollars, and less than seventy thousand dollars, the license shall be six hundred dollars, $600.

Ninth class. When said premiums are fifty thousand dollars, and less than sixty thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When said premiums are forty thousand dollars, and less than fifty thousand dollars, the license shall be five hundred dollars, $500.

Eleventh class. When said premiums are thirty thousand dollars, and less than forty thousand dollars, the license shall be four hundred and fifty dollars, $450.

Twelfth class. When said premiums are twenty thousand dollars, and less than thirty thousand dollars, the license shall be four hundred dollars, $400.

Thirteenth class. When said premiums are ten thousand dollars, and less than twenty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Fourteenth class. When said premiums are less than ten thousand dollars, the license shall be three hundred dollars, $300.

Provided, that no corporation not incorporated under the laws of the State, nor any foreign society, firm or partnership, shall do business in this city, except through an agent duly authorized and accredited for the purpose of said business, and for all purposes

connected with licenses and taxation and service of process, said agent to be appointed by authentic act, and a certified copy of the act to be deposited in the office of the secretary of state. Any person or firm who shall fill up or sign a policy or certificate of insurance on open marine or fire insurance policy, or otherwise issue by a corporation or association, or persons, not located or represented in this State by a legally authorized agent, shall be considered an agent of such corporation or person or association, and shall be liable for all licenses, taxes and penalties enforced by the provisions of this act upon such person, corporation and association, as if represented by a legally appointed agent.

Provided, that nothing herein contained shall apply to mutual aid societies which pay mutual insurance policies by assessments upon members, whether the same be or not be domiciled in this State.

Carrying and Storing.

SEC. 8. Be it further ordained, etc., That — every omnibus or regular coach or herdic business, and for every business of transporting money, merchandise, or other articles by express or transfer, of operating one or more towboats or tugboats or keeping a warehouse or storage-room, the license shall be based on the gross annual receipts of said business, as follows: There shall be no class of this business higher than the tenth class; when said receipts are five hundred thousand dollars or more, the license shall be four hundred dollars, $400.

Eleventh class. When the gross annual receipts are four hundred thousand dollars or more and less than five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When the gross annual receipts are three hundred thousand dollars or more and less than four hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When the gross annual receipts are two hundred and fifty thousand dollars or more and less than three hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When the gross annual receipts are two hundred thousand dollars or more and less than two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

163 Fifteenth class. When the gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When the gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When the gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When the gross annual receipts are twenty-five thousand dollars or more, and less than seventy-five thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When the receipts are less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Provided, that warehouses receiving less than three hundred and fifty dollars per year shall pay no license.

That for every person, association of persons, business firm or corporation, doing a storage business of sugar and molasses exclusively or either of them, the license shall be based on the gross annual receipts of said business, as follows. There shall be nine classes, viz:

First class. When the gross annual receipts are twenty thousand dollars the license shall be one thousand dollars, $1,000.

Second class. When the gross annual receipts are eighteen thousand dollars or more, and less than twenty thousand dollars, the license shall be five hundred dollars, $500.

Third class. When the gross annual receipts are fifteen thousand dollars or more, and less than eighteen thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Fourth class. When the gross annual receipts are twelve thousand five hundred dollars or more, and less than fifteen thousand dollars, the license shall be three hundred and ten dollars, $310.

Fifth class. When the gross annual receipts are ten thousand dollars or more, and less than twelve thousand five hundred dollars, the license shall be two hundred and fifty dollars, $250.

Sixth class. When the gross annual receipts are seven thousand five hundred dollars or more, and less than ten thousand dollars, the license shall be one hundred and eighty dollars, $180.

Seventh class. When the gross annual receipts are four thousand five hundred dollars or more, and less than seven thousand five hundred dollars, the license shall be one hundred and fifty dollars, $150.

Eighth class. When the gross annual receipts are three thousand dollars or more, and less than four thousand five hundred dollars, the license shall be one hundred and ten dollars, $110.

Ninth class. When the gross annual receipts are less than three thousand dollars, the license shall be seventy-five dollars, $75; Provided, that for the business of carrying on, operating or running any horse or steam railroad, or both, for the transportation of passengers within the limits of this city, the annual license shall be based on the annual gross receipts, as follows, viz:

First class. When the said annual gross receipts are five hundred thousand dollars, or in excess of that amount, the license shall be twenty-five hundred dollars, $2,500.

Second class. When the said annual gross receipts are over four hundred and fifty thousand dollars, and not more than five hundred thousand dollars, the license shall be twenty-two hundred and fifty dollars, $2,250.

Third class. When the said annual gross receipts are over four hundred thousand dollars, and not more than four hundred and

fifty thousand dollars, the license shall be two thousand dollars, $2,000.

Fourth class. When the said annual gross receipts are over three hundred and fifty thousand dollars, and not more than four hundred thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Fifth class. When the said annual gross receipts are over three hundred thousand dollars, and not more than three hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When the said annual gross receipts are over two hundred thousand dollars, and not more than three hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When the said annual gross receipts are over one hundred thousand dollars, and not more than two hundred thousand dollars, the license shall be five hundred dollars, $500.

Eighth class. When the said annual gross receipts are one hundred thousand dollars or less, the license shall be two hundred and fifty dollars, $250.

Miscellaneous.

SEC. 9. Be it further ordained, etc., That for carrying on each business of gas light, electric light, water works, telegraphing (including local and district telegraph) telephoning, cotton compress or ginnery, saw-mills, cotton pickery, slaughter-house, distilling and rectifying alcoholic or malt liquors, brewing ale, beer, porter, or other malt liquors, manufacturing tobacco, cigars or cigarettes, refining sugar and molasses, manufacturing cotton-seed oil, oil cake or cotton-seed meal; the license shall be based on the gross annual receipts of each person, association of persons, business firm or corporation engaged in said business, as follows:

First class. When the said gross annual receipts are two million five hundred thousand dollars and over, the license shall be three thousand five hundred dollars, $3,500.

Second class. When the said gross annual receipts are two million two hundred and fifty thousand dollars or more, and less than two million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When the said gross annual receipts are two million of dollars or more, and less than two million two hundred and fifty thousand dollars, the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When the said gross annual receipts are one million seven hundred and fifty thousand dollars or more and less than two million dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When the said gross annual receipts are one million five hundred thousand dollars or more and less than one million seven hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When the said gross annual receipts are one million

two hundred and fifty thousand dollars or more, and less than one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When the said gross annual receipts are one million dollars or more and less than one million two hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When the said gross annual receipts are seven hundred and fifty thousand dollars or more, and less than one million dollars, the license shall be seven hundred dollars, $700.

Ninth class. When the said gross annual receipts are five hundred thousand dollars or more, and less than seven hundred and fifty thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When the said gross annual receipts are two hundred and fifty thousand dollars or more and less than five hundred thousand dollars, the license shall be $400.

Eleventh class. When the said annual gross receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When the said gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When the said gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When the said gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When the said gross annual receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When the said gross annual receipts are thirty-seven thousand five hundred dollars or more, and less than fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When the said gross annual receipts are twenty-five thousand dollars or more, and less — thirty-seven thousand five hundred dollars, the license shall be fifty dollars, $50.

Eighteenth class. When the said gross annual receipts are over twenty thousand dollars, and less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Nineteenth class. When the said gross annual receipts are over fifteen thousand dollars, and less than twenty thousand dollars, the license shall be twenty-five dollars, $25.

Twentieth class. When the said gross annual receipts are less than fifteen thousand dollars, the license shall be fifteen dollars, $15.

SEC. 10. Be it further ordained, etc., That the licenses herein provided for shall be graduated in thirteen classes, or so many thereof as shall be hereinafter indicated, as follows:

Amusements.

That for every business of keeping a theater, opera-house, amphitheatre, academy of music, a license shall be based upon the quantity of space devoted to spectators, to be calculated by the number of seats, or ordinary space for seats, as follows, viz:

First class. When the number of seats or spaces are one thousand or more, the licenses shall be four hundred dollars, $400.

Second class. When the number of seats or spaces are seven hundred and fifty or more, and are less than one thousand, the license shall be three hundred dollars, $300.

Third class. When the number of seats or spaces are five hundred or more, and less than seven hundred and fifty, the license shall be two hundred and fifty dollars, $250.

Fourth class. When the said number of seats is less than five hundred, the license shall be one hundred and seventy-five dollars: Provided, that no business of this class shall be licensed for less than one hundred and seventy-five dollars, $175.

That for any place where can-can, clodoche or other similar female dancing or sensation performance or statuary exhibitions are shown, or any other fixed place for either theatrical, musical, minstrel, concert, dancing or variety performance, exhibition, amusement or show, the license shall be one thousand dollars, and nothing in this paragraph shall be construed as licensing or permitting any performance which is prohibited by other laws, ordinances or police regulations. Provided, that nothing in this section shall apply to any respectable and legitimate place of business already paying a license under the provisions of this ordinance, where free concerts may be given for the entertainment of guests by regularly organized officers only; and provided further, that the provisions of this ordinance shall not apply to private or public concerts given in duly licensed halls or at private houses; and provided further, that for exchanges where betting is carried on, when such is allowed by law, the license shall be one thousand dollars.

Provided, that no museum, menagerie, circus or other traveling show shall be permitted to make exhibitions within the city of New Orleans unless they have first paid a license, based on the number of attaches whether proprietors, performers or employés, as follows:

First class. When the number of said persons is one hundred or more, the license shall be five hundred dollars, $500.

Second class. When the number of said persons is seventy-five or more, and less than one hundred, the license shall be four hundred dollars, $400.

Third class. When the number of said persons is fifty or more, and less than seventy-five, the license shall be three hundred dollars.

Fourth class. When the number of said persons is thirty or more, and less than fifty, the license shall be two hundred and fifty dollars, $250.

Fifth class. When the number of persons is twenty or more, and less than thirty, the license shall be two hundred dollars, $200.

Sixth class. When the number of said persons is ten or more, and less than twenty, the license shall be one hundred and fifty dollars, $150.

Seventh class. When the number of said persons is five or more, and less than ten, the license shall be one hundred dollars, $100.

Eighth class. When the number of said persons is four, the license shall be seventy-five dollars, $75.

Ninth class. When the number of said persons is three, the license shall be fifty dollars, $50.

Tenth class. When the number of persons is two, the license shall be forty dollars, $40.

Eleventh class. When the number is one, the license shall be thirty dollars, $30.

That for every hall where balls or entertainments not above provided for are given, the classification for license shall be as in the first part of this section, but their prices shall be only one-fourth of those provided for in section 10; provided this shall not apply to balls given by private parties or for charitable purposes.

That for each person carrying on the business or calling or selling or dealing in railroad or steamship tickets, whether said tickets are sold on the streets, in the office of the company he represents or that of any other company, shall pay an annual license graded upon the number of companies he represents, to wit: One company, twenty-five dollars ($25); two companies, forty dollars ($40); three or more companies, fifty dollars ($50).

Each and every peddler and hawker shall pay an annual license graded as follows: When traveling on foot, five dollars ($5); when traveling on horseback, ten dollars ($10); when traveling in one-horse vehicle, fifteen dollars ($15); when traveling in two-horse vehicle, thirty dollars ($30); when traveling on boat, barge or other water craft, one hundred dollars, provided no hawker or peddler whose stock does not exceed in value ten dollars ($10) will
164 be required to pay any license; and provided further, that police officers throughout the city are hereby empowered and directed to cause all peddlers and hawkers to exhibit their city license, and if the peddlers or hawkers fail to produce or exhibit the same, the police officer shall retain their stock of merchandise until said peddler- or hawkers procure their city licenses.

Sustenance and Refreshment.

SEC. 11. That for every business of keeping a hotel, where lodging and eating are combined, the license shall be based on the number of furnished lodging rooms for guests, as follows, viz:

First class. When said rooms are in number three hundred or more, the license shall be six hundred dollars ($600).

Second class. When said rooms are in number two hundred and twenty-five or more, and less than three hundred, the license shall be five hundred dollars ($500).

Third class. When said rooms are in number one hundred and fifty or more, and less than two hundred and twenty-five, the license shall be three hundred and seventy-five dollars ($375).

Fourth class. When said rooms are in number seventy-five or more, and less than one hundred and fifty, the license shall be three hundred dollars ($300).

Fifth class. When said rooms are in number forty-five or more, and less than seventy-five, the license shall be two hundred dollars ($200).

Sixth class. When said rooms are in number thirty or more, and less than forty-five, the license shall be one hundred and fifty dollars, $150.

Seventh class. When said rooms are in number fifteen or more, and less than thirty, the license shall be one hundred dollars ($100).

Eighth class. When said rooms are in number twelve or more, and less than fifteen, the license shall be seventy-five dollars ($75).

Ninth class. When said rooms are in number nine or more, and less than twelve, the license shall be fifty dollars ($50).

Tenth class. When said rooms are in number six or more and less than nine, the license shall be forty dollars ($40).

Provided, that no person who keeps a boarding-house, in connection with schools or colleges for the accommodation of students and employés thereof, shall pay any license as boarding-house.

Provided further, that no license shall be required when the number of said rooms is less than provided for in class ten; that for every business of lodging alone the license shall be estimated on the same basis as for hotels, but graduated at one-half rates; provided, that boarding-houses pay sixty per cent. of the rates of hotels.

That for every business of bar-room, cabaret, coffee-house, café, beer saloon, liquor exchange, drinking saloon, grog shop, beer-house, beer garden, or other place where anything to be drunk or eaten on the premises is sold directly or indirectly, the license shall be based on the annual gross receipts of said business, as follows, viz:

That for this business there shall be one extra class:

Class A. When said gross annual receipts are fifty thousand dollars ($50,000) or more, for which the license shall be seven hundred and fifty dollars ($750).

First class. When said gross annual receipts are thirty-seven thousand dollars ($37,000) or more, and less than fifty thousand dollars, the license shall be five hundred dollars ($500).

Second class. When the gross annual receipts are twenty-five thousand dollars ($25,000) or more, and less than thirty-seven thousand five hundred dollars, the license shall be four hundred dollars ($400).

Third class. When said gross annual receipts are twenty thousand dollars ($20,000) or more, and less than twenty-five thousand dollars, the license shall be three hundred dollars ($300).

Fourth class. When the gross annual receipts are fifteen thousand

dollars ($15,000) or more, and less than twenty thousand dollars, the license shall be two hundred and fifty dollars ($250).

Fifth class. When said gross annual receipts are ten thousand dollars ($10,000) or more, and less than fifteen thousand dollars, the license shall be two hundred dollars ($200).

Sixth class. When said gross annual receipts are seven thousand five hundred dollars ($7,500) or more, or less than ten thousand dollars, the license shall be one hundred and fifty dollars ($150).

Seventh class. When said gross annual receipts are five thousand dollars ($5,000) or more, or less than seven thousand five hundred dollars, the license shall be one hundred dollars, $100.

Eighth class. When said gross annual receipts are two thousand dollars or more, and less than five thousand dollars, for which the license shall be seventy-five dollars, $75.

Ninth class. When said receipts are less than two thousand dollars ($2,000), for which the license shall be fifty dollars, $50.

Provided no license shall be charged for selling refreshments for charitable or religious purposes; provided, that no establishment selling or giving away, or otherwise disposing of any spirits, wines, alcoholic or malt liquors in less quantities than one pint shall pay less than fifty dollars ($50); provided further, that when any kind of business provided for in this section shall be combined with any business provided for in section ten, the same classification shall be made as prescribed in this section; but the price of the license shall be equal to the license required for each business separate.

That for the business of keeping billiard tables, pigeon-hole, Jenny Lind, pool or bagatelle tables, and ten-pin alleys, from which revenue is derived, a license of ten dollars for each such table or alley shall be paid in addition to any other license due by the establishment in which said tables or alleys may be situated.

Provided, that all persons, associations of persons or business firms and corporations engaged in the sale of soda water, mead, confections, cakes, etc., exclusively, shall be rated as follows:

First class. When the gross sales are ten thousand dollars, or in excess of that amount, the license shall be fifty dollars, $50.

Second class. When the gross sales are eight thousand dollars or more, and less than ten thousand dollars, the license shall be forty dollars, $40.

Third class. When the gross sales are six thousand dollars or more, and under eight thousand dollars, the license shall be thirty dollars, $30.

Fourth class. When the gross sales are four thousand dollars or more, and under six thousand dollars, the license shall be twenty dollars, $20.

Fifth class. When the gross sales are three thousand dollars or more, and under four thousand dollars, the license shall be fifteen dollars, $15.

Sixth class. When the gross sales are less than three thousand dollars, the license shall be ten dollars.

Provided, that this provision shall not apply to places doing the

business herein named, where alcoholic, vinuous or malt liquors are sold.

Provided further, that druggists, etc., selling soda water, mead, etc., shall be required to take out a license under this act.

Professional and Personal Occupation.

SEC. 12. Be it further ordained, etc., That the annual license for the kinds of business hereinafter named shall be graduated in thirteen classes a- follows, viz:

That for every individual or company carrying on the profession or business agency for steamboats, draying, trucking, keeping cabs, carriages, hacks or horses for hire, undertakers, owners or lessees of toll bridges and ferries, master builders, stevedore- and mechanic-, who employ assistance, the license for said profession or occupation:

First class. When said gross annual receipts are twenty thousand dollars or more, the license shall be one hundred and twenty dollars, $120.

Second class. When said gross annual receipts are sixteen thousand dollars or more, and less than twenty thousand dollars, the license shall be one hundred and five dollars, $105.

Third class. When said gross annual receipts are twelve thousand dollars or more, and less than sixteen thousand dollars, the license shall be ninety-five dollars, $95.

Fourth class. When said gross annual receipts are ten thousand dollars or more, and less than twelve thousand dollars, the license shall be eighty dollars, $80.

Fifth class. When said gross annual receipts are eight thousand dollars or more, and less than ten thousand dollars, the license shall be seventy dollars, $70.

Sixth class. When said gross annual receipts are six thousand dollars or more, and less than eight thousand dollars, the license shall be sixty dollars, $60.

Seventh class. When the said gross annual receipts are five thousand dollars or more, and less than six thousand dollars, the license shall be fifty dollars, $50.

Eighth class. When said gross annual receipts are four thousand dollars or more, and less than five thousand dollars, the license shall be forty dollars, $40.

Ninth class. When said gross annual receipts are three thousand dollars or more, and less than four thousand dollars, the license shall be thirty dollars, $30.

Tenth class. When said gross annual receipts are two thousand dollars or more, and less than three thousand dollars, the license shall be twenty-five dollars, $25.

Eleventh class. When said gross annual receipts are one thousand dollars or more, and less than two thousand dollars, the license shall be twenty dollars, $20.

Twelfth class. When said gross annual receipts are seven hundred and fifty dollars or more, and less than one thousand dollars, the license shall be fifteen dollars, $15.

Thirteenth class. When said gross annual receipts are less than seven hundred and fifty dollars the license shall be four dollars, $4.

That every individual or individuals carrying on the business or profession of physician, attorney-at-law, editor, dentist, oculist, barber, photographer, agency for publications, freight, ticket, claims, patent rights, and all other business not herein provided for, shall be graded the same as above set forth, but the license shall be one-half of those established by this section, and provided no license shall be issued hereunder for less than $5.

All travelling agents offering any species of merchandise in this city for sale or selling the same by sample or otherwise shall, if representing one house, firm or business, pay a license of fifty dollars per annum.; and for each additional house, firm or business he represents he shall pay an extra license of twenty-five ($25). If representing two houses, firms or businesses he shall pay a license of seventy-five dollars ($75) per annum. The treasurer is authorized to collect the said licenses of travelling agents. And the treasurer shall be and is hereby authorized and empowered on the refusal of any travelling agent to pay the license as provided for in this act, to seize, without notice, any property he may find belonging to the said travelling agent, or found in his possession, and sell the same to satisfy the license, penalties and costs, as herein provided.

SEC. 13. Be it further ordained, etc., That when any two or more kinds of business are combined, except as herein expressly provided for, there shall be a separate license required for each kind of business.

SEC. 14. Be it further ordained, etc., That the annual receipts, capital sales and premiums in this act, referred to as a basis of license, are those for the year for which the license is granted; the standard for their estimation shall be *prima facie* of the preceding year if the business has been conducted previously by the same parties or by parties to whom they claim to be successors.

If the firm or company be new the amount of gross sales for the first two months shall be considered the basis, and six times that amount shall be estimated as the annual receipts of such business. Provided, that any person commencing business after the first of July shall pay one-half the above rates.

Be it further ordained, etc., That the business of the previous year, as also the actual condition and results of business of the current year, for new firms, associations or corporations, for the purpose of calculating license, shall be ascertained by the treasurer in the sworn statement of the person or persons in interest, his or their duly authorized agent or officer, made before the treasurer or his deputy; provided, that if the treasurer be not satisfied with the said sworn statements he shall traverse the same by a rule taken in proper court, as provided in the constitution, which rule shall be tried summarily, whether an answer be thereto filed or not. On the trial of said rule the books and written entries and memoranda of said person or persons, firms, companies, corporations or parties shall be brought into court and subjected to the inspection and examination

of the court, the officer who took the rule, and such experts as he may employ or the court may appoint; provided, that this inspection shall not be construed as entitling the defendant to introduce in evidence said books and documents any more than he would have been without such inspection; provided also, that the license shall issue in accordance with the said sworn statement, notwithstanding the prospect of pendency of the rule, and the final rectification shall be made as ordered by the court.

SEC. 16. Be it further ordained, etc., That if any business shall be conducted without a license, in cases herein provided, the officer whose duty it is to issue license shall, through the attorney herein provided for, on motion in the proper courts as provided in the constitution, and which shall be without deposit for advance costs, take a rule on the party or parties doing such business, to show cause on the fifth day, exclusive of holidays, after the service thereof, which may be tried out of term time and in chambers, and shall always be tried by preference, why said party or parties should not pay the amount of the license claimed and penalties, or be ordered to cease from further pursuits of said business until after having obtained a license; and in case said rule is made absolute the order thereon rendered shall be considered a judgment in favor of the city, for the amount decreed, to be due by the defendant for license and penalty and costs heretofore and hereinafter provided for, and shall be executed in the same manner as other judgments, and every violation of the order of the court shall be considered as a contempt thereof, and punished according to law.

165 It is hereby expressly provided that each person, association of persons, business firm, or corporation, required to make out a license under this act, shall be required to post the same in a conspicuous place, in his or their place of business, under a penalty of not less than ten nor more than one hundred dollars, recoverable by the treasurer before any court of competent jurisdiction; and it shall be the duty of the treasurer to visit in person or by deputies, the several places of business herein mentioned, and ascertain that the provisions of this section are strictly carried out.

SEC. 17. Be it further ordained, etc., That the only legal evidence that a license has been paid shall be the appropriate form of license issued by the treasurer, and no receipts issued in place of the license itself shall be valid, and this clause shall be construed to prevent the treasurer from issuing a receipt, in lieu of the appropriate form, to any person, association of persons, or business corporations. Provided, that nothing herein contained shall be so construed as to exclude oral evidence of lost or destroyed licenses.

SEC. 18. Be it further ordained, etc., That the treasurer shall prepare and keep a book in which he shall record or file the statements made under oath of all persons, associations of persons, business firms or corporations, who may apply for license to pursue any trade, profession, vocation, calling or business under this act.

SEC. 19. Be it further ordained, etc., That the city treasurer charged with the collection of taxes is hereby empowered and re-

quired to administer oath to any person, president or proper officer, or agent of any association or persons, business firms or corporations, applying for license under this act; and the treasurer, as aforesaid, or any notary public or other officer of the State empowered to administer oaths, who shall sign any jurat or certify to the correctness of any oath without administering the said oath in person to the applicants, shall be deemed guilty of a misdemeanor, and on conviction be dealt with in accordance with existing laws relative to the dismissal from office of such several officers, and in addition to which they shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars. That when the oath is taken before the treasurer, no charge shall be made for the same. Any false swearing as to the gross receipts of any person or persons or corporations, through their president or proper officer or agent applying for license, shall constitute the crime of perjury, to be punished as directed by the existing criminal laws of the State.

SEC. 20. Be it further ordained, etc., That the treasurer is hereby required to keep a license register, in which he shall enter the names of every person, association of persons, business firms or corporations with the trade, profession, vocation, calling or business pursued, the class and graduation of the same, the amount of license thereon, and the date of collection or payment thereof. On the 31st day of December of each and every year the said treasurer shall make out and forward to the comptroller a full and complete transcript of said license register, a copy of which transcript the comptroller shall lay before the city council at its first regular session of each year, and shall file the same in his office for his future reference or use.

SEC. 21. Be it further ordained, etc., That the treasurer upon violating any of the provisions of this act, or who shall wilfully rate any person, association of persons, or business firms and corporations, at a less graduation than the law contemplates, or who shall issue to any of said persons, association of persons, or business firms and corporations, a license for a less sum than that corresponding with their graduation shall be deemed guilty of a misdemeanor in office, and shall on conviction before a court of competent authority, be summarily dismissed therefrom.

On the first day of March of each year the treasurer shall deliver to the city council a complete list of all the delinquent license payers, together with their location and kind of business, and the city attorney shall immediately proceed to collect same, in accordance with this ordinance and if not collected within thirty days from date of delivery of list by the city treasurer, it shall be the duty of said city attorney to render a written report giving reason for non-collection to the council.

SEC. 22. Be it further ordained, etc., That all unpaid license shall be subjected to a penalty of two per cent. per month, from the first day of March until date of payment, and the treasurer shall collect said license and penalty in the manner provided by existing

laws and keep the penalty account separate and distinct from the general fund.

SEC. 23. Be it further ordained, etc., That all gross receipts derived from any mercantile business or occupation whatsoever as hereafter provided, whether earned within or without the State, shall form the proper basis upon which all licenses shall be assessed and collected by the treasurer.

SEC. 24. Be it further ordained, etc., That a person, firm or company having more than one place of business, shall pay a separate license for each place of business.

SEC. 25. Be it further ordained, etc., That no free permits shall be granted except to maimed peddlers, crippled persons, or persons incapacitated from performing hard work. Any violation of this section shall be punishable by such fine as may be deemed proper by the recorder of the district in which the offence was committed.

SEC. 26. Be it further ordained, etc., That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, and that this ordinance shall have full force and effect from and after its promulgation.

Adopted by the council of the city of New Orleans, November 12, 1889.

EMILE J. OBRIEN,
Assistant Clerk of Council.

Approved Nov. 14, 1889.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

166 ORDINANCES.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 10, 1890.

No. 4921, council series.

An ordinance to levy, collect, and enforce payment of annual license taxes upon all persons, associations of persons, or business firms and corporations, pursuing any trade, profession, vocation, calling or business in the city of New Orleans, except those expressly exempted from such license taxes by articles 206 and 207 of the constitution.

SECTION 1. Be it ordained by the council of the city of New Orleans, That there is hereby levied an annual license tax for the year A. D. 1891, upon each person, association of persons or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those expressly exempted from such license tax by articles 206 and 207 of the constitution.

SEC. 2. Be it further ordained, That on the second day of January, A. D. 1891, the city treasurer shall begin to collect, and shall collect as fast as possible from each of the persons or business

firms, association of persons and corporations pursuing any trade, profession, vocation, calling or business in the city of New Orleans, a license tax as hereinafter graduated. All licenses shall be due and collectible during the first two (2) months of each year, and all unpaid licenses shall become delinquent on the first day of March of each year, and all firms who commenced business after that date shall become delinquent unless the license is paid within ten days.

SEC. 3. Be it further ordained, That the annual license for all kinds of business hereinafter named, except as afterwards provided, shall be graduated in twenty-five classes.

Manufacturers.

SEC. 4. That for carrying on each business of manufacturing not expressly exempted by articles 206 and 207 of the constitution, the license shall be based on gross annual receipts of said business as follows, to wit:

First class. When said receipts are ten million dollars or more, the license shall be eight thousand dollars ($8,000).

Second class. When the said receipts are nine million dollars or more, and under ten million dollars, the license shall be seven thousand dollars, $7,000.

Third class. When said receipts shall be eight million dollars or more, and under nine million dollars, the license shall be five thousand six hundred dollars, $5,600.

Fourth class. When said receipts are seven million dollars or more, and under eight million dollars, the license shall be forty-nine hundred dollars, $4,900.

Fifth class. When said receipts are six million dollars or more, and under seven million dollars, the license shall be forty-two hundred dollars, $4,200.

Sixth class. When said receipts are five million dollars or more, and under six million dollars, the license shall be thirty-five hundred dollars, $3,500.

Seventh class. When said receipts are four million dollars or more, and under five million dollars, the license shall be twenty-eight hundred dollars, $2,800.

Eighth class. When said receipts are three million dollars or more, and under four million dollars, the license shall be twenty-one hundred dollars, $2,100.

Ninth class. When said receipts are two million dollars or more and under three million dollars, the license shall be fourteen hundred dollars, $1,400.

Tenth class. When said receipts are one million dollars or more, and under two million dollars, the license shall be seven hundred dollars, $700.

Eleventh class. When said receipts are seven hundred and fifty thousand dollars or more, and under one million dollars, the license shall be five hundred and twenty-five dollars, $525.

Twelfth class. When said receipts shall be five hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Thirteenth class. When said receipts are four hundred thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and eighty dollars, $280.

Fourteenth class. When said receipts are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be two hundred and ten dollars, $210.

Fifteenth class. When said receipts are two hundred thousand dollars or more, and under three hundred thousand dollars, the license shall be one hundred and forty dollars, $140.

Sixteenth class. When said receipts are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and five dollars, $105.

Seventeenth class. When said receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy dollars, $70.

Eighteenth class. When said receipts are ninety-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be sixty-five and one-half dollars, $65.50.

Nineteenth class. When said receipts are ninety thousand dollars or more, and less than ninety-five thousand dollars, the license shall be sixty-three dollars, $63.

Twentieth class. When said receipts are seventy-five thousand dollars or more, and under ninety thousand dollars, the license shall be fifty-two and one-half dollars, $52.50.

Twenty-first class. When said receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be thirty-five dollars, $35.

Twenty-second class. When said receipts are forty thousand dollars or more, and less than fifty thousand dollars, the license shall be twenty-eight dollars, $28.

Twenty-third class. When said receipts are thirty thousand dollars or more, and less than forty thousand dollars, the license shall be twenty-one dollars, $21.

Twenty-fourth class. When said receipts are twenty-five thousand dollars or more, and less than thirty thousand dollars, the license shall be nineteen and one-half dollars, $19.50.

Twenty-fifth class. When said receipts are less than twenty-five thousand dollars, the license shall be fifteen dollars, $15.

Banking.

SEC. 5. That for each business of carrying on a bank, banking company, association, corporation or agency, the license shall be based on the declared or nominal capital and surplus, whether said capital and surplus is owned, or in use, or on deposit, in the State or elsewhere, as follows, to wit:

First class. When said declared or nominal capital and surplus is five million dollars or more the license shall be four thousand five hundred dollars, $4,500.

Second class. When said declared or nominal capital and surplus is four million dollars or more, and less than five million dollars, the license shall be four thousand dollars, $4,000.

Third class. When said declared or nominal capital and surplus is three million dollars or more, and less than four million dollars, the license shall be three thousand two hundred dollars, $3,200.

Fourth class. When said declared or nominal capital and surplus is two million dollars or more, and less than three million dollars, the license shall be twenty-four hundred dollars, $2,400.

Fifth class. When said declared or nominal capital and surplus is one million five hundred thousand dollars or more, and less than two million dollars, the license shall be sixteen hundred dollars, $1,600.

Sixth class. When said declared or nominal capital and surplus is one million dollars or more, and under one million five hundred thousand dollars, the license shall be twelve hundred dollars, $1,200.

Seventh class. When said declared or nominal capital and surplus is eight hundred thousand dollars or more, and under one million dollars, the license shall be eight hundred dollars, $800.

Eighth class. When said declared or nominal capital and surplus is six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be six hundred dollars, $600.

Ninth class. When said declared or nominal capital and surplus is four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred and fifty dollars, $450.

Tenth class. When said declared or nominal capital or surplus is three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be three hundred and fifty dollars, $350.

Eleventh class. When said declared or nominal capital and surplus is two hundred thousand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Twelfth class. When said declared or nominal capital and surplus is one hundred thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Thirteenth class. When said declared or nominal capital and surplus is fifty thousand dollars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

The declared or nominal capital and surplus as provided in this section, shall be ascertained and based upon the annual statement made in pursuance of existing laws to the State treasurer.

For each business of carrying on a private banking-house, business or agency, there shall be three classes only, and the license shall be based on the total declared capital invested in said business, whether said capital is owned or in use or deposit in this State or elsewhere, as follows:

First class. When said capital is five hundred thousand dollars or more, the license shall be five hundred dollars, $500.

Second class. When said capital is two hundred and fifty thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Third class. When said capital is under two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

Commission Business.

SECTION 6. Be it further ordained, etc., That for carrying on the business pursuits known as cotton factorage and commission business, sugar factories, grain and produce commission houses, or any other factorage or commission business, brokerage in money, stocks, bonds, real estate, produce, sugar, cotton or other brokerage business, whether buying or selling for actual spot or future delivery, the license shall be based on the gross annual commissions and brokerage on sales and purchases.

First class. When gross annual commissions exceed two hundred and fifty thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When gross annual commissions exceed two hundred thousand dollars and not more than two hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When gross annual commissions exceed one hundred and seventy-five thousand dollars, and no more than two hundred thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When gross annual commissions exceed one hundred and fifty thousand dollars, and no more than one hundred and seventy-five thousand dollars, the license shall be eleven hundred and twenty-five dollars, $1,125.

Fifth class. When annual gross commissions exceed one hundred and twenty-five thousand dollars, and no more than one hundred and fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Sixth class. When gross annual commissions exceed one hundred thousand dollars, and no more than one hundred and twenty-five thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Seventh class. When annual gross commissions exceed eighty thousand dollars, and no more than one hundred thousand dollars, the license shall be six hundred dollars, $600.

Eighth class. When annual gross commissions exceed sixty-five thousand dollars and are no more than eighty thousand dollars, the license shall be five hundred dollars, $500.

Ninth class. When annual gross commissions exceed fifty thousand dollars, and are no more than sixty-five thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Tenth class. When annual gross commissions exceed forty thousand dollars, and are no more than fifty thousand dollars, the license shall be three hundred dollars, $300.

Eleventh class. When annual gross commissions exceed thirty thousand dollars, and are no more than forty thousand dollars, the license shall be two hundred and twenty-five dollars, $225.

Twelfth class. When annual gross commissions exceed twenty-five thousand dollars, and are no more than thirty thousand dollars, the license shall be one hundred and eighty-seven dollars and fifty cents, $187.50.

Thirteenth class. When annual gross commissions exceed twenty thousand dollars, and are no more than twenty-five thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fourteenth class. When annual gross commissions exceed fifteen thousand dollars, and are no more than twenty thousand dollars, the license shall be one hundred and twelve dollars and fifty cents, $112.50.

Fifteenth class. When annual gross commissions exceed ten
167 thousand dollars, and are no more than fifteen thousand dollars, the license shall be seventy-five dollars, $75.

Sixteenth class. When annual gross commissions exceed five thousand dollars, and are no more than ten thousand dollars, the license shall be fifty dollars, $50.

Seventeenth class. When annual gross commissions are five thousand dollars or less, the license shall be twenty-five dollars, $25. The secretaries of the various cotton, stock and produce exchanges shall furnish the city treasurer with a full and complete list of the names of the members of said associations, when called upon; and in case of failure of the said secretary to furnish said list, it shall be the duty of said treasurer to compel them to furnish said list, by serving a simple rule to show cause before any court of competent jurisdiction, and all costs of said rule shall be paid by the defendant to said proceeding.

Pawn Shops.

SEC. 7. Be it further ordained, etc., That each and every pawnbroker or keeper of a loan office, whose capital, in actual use, is fifty thousand dollars or more, the license shall be five hundred dollars ($500); that when the capital in actual use is less than fifty thousand dollars, the license shall be three hundred and seventy-five dollars ($375).

Wholesale and Retail Dealers.

SEC. 8. Be it further ordained, etc., That for every wholesale mercantile business, whether as principal, agent on commission, by auction, representing foreign merchants or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are seven million dollars or over the license shall be three thousand five hundred dollars ($3,500).

Second class. When gross sales are six million five hundred thousand dollars or more, and under seven million dollars, the license shall be three thousand dollars ($3,000).

Third class. When gross sales are six million dollars or more, and

under six million five hundred thousand dollars, the license shall be two thousand five hundred dollars ($2,500).

Fourth class. When gross sales are five million five hundred thousand dollars or more, and under six million dollars, the license shall be two thousand dollars ($2,000).

Fifth class. When gross sales are five million dollars or more, and under five million five hundred thousand dollars, the license shall be fifteen hundred dollars ($1,500).

Sixth class. When gross sales are four million dollars or more, and under five million dollars, the license shall be one thousand dollars ($1,000).

Seventh class. When gross sales are three million dollars or more, and under four million dollars, the license shall be seven hundred and fifty dollars ($750).

Eighth class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars, the license shall be seven hundred dollars ($700).

Ninth class. When gross sales are two million dollars or more, and under two million five hundred thousand dollars, the license shall be five hundred and fifty dollars ($550).

Tenth class. When gross sales are one million five hundred thousand dollars or more, and under two million dollars, the license shall be four hundred dollars ($400).

Eleventh class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be three hundred dollars ($300).

Twelfth class. When gross sales are eight hundred thousand dollars or more, and under one million dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are five hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are two hundred and fifty thousand dollars and no more than five hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are less than two hundred and fifty thousand dollars, the license shall be fifty dollars, $50.

Provided, that no person or persons shall be deemed wholesale dealers unless he or they sell by the original or unbroken package or barrel only; and, provided, further that no person or persons shall be deemed wholesale dealers unless he or they sell to dealers for re-sale. If they sell in less quantities than original and unbroken packages or barrels, they shall be considered retail dealers, and pay licenses as such. That for every business of selling at retail, whether as principal, agent on commission or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are three million five hundred thousand dollars or over, the license shall be thirty-five hundred dollars, $3,500.

Second class. When gross sales are three million dollars or more, and less than three million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are two million five hundred thousand dollars or more and under three million dollars, the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When gross sales are two million- of dollars or more, and under two million five hundred thousand dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are one million five hundred thousand dollars or more, and under two million dollars the license shall be one thousand five hundred dollars, $1,500.

Sixth class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are seven hundred and fifty thousand dollars, and under one million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are seven hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are six hundred thousand dollars or more, and under seven hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are two hundred and fifty thousand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are two hundred thousand dollars or more, and under two hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are one hundred thousand dollars or more, and under one hundred and fifty thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are seventy-five thousand dollars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross sales are fifty thousand dollars or more, and under seventy-five thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross sales are forty thousand dollars or more, and under fifty thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When gross sales are thirty thousand dollars or more, and under forty thousand dollars, the license shall be thirty dollars, $30.

Twentieth class. When gross sales are twenty-five thousand dollars or more, and under thirty thousand dollars, the license shall be twenty-five dollars, $25.

Twenty-first class. When gross sales are twenty thousand dollars or more, and less than twenty-five thousand dollars, the license shall be twenty dollars, $20.

Twenty-second class. When gross sales are fifteen thousand dollars or more, and less than twenty thousand dollars, the license shall be fifteen dollars, $15.

Twenty-third class. When gross sales are less than fifteen thousand dollars, and more than five thousand dollars, the license shall be ten dollars, $10.

Twenty-fourth class. When gross sales are five thousand dollars or less, the license shall be five dollars, $5.

Provided, that if any distilled, vinous, malt or other kind of mixed liquors be sold in connection with the business of retail merchant, grocer, restaurant, oyster-house, confectionery or druggist, in less quantities than five gallons, the license for such additional business shall be as hereinafter provided for bar-rooms in section sixteen of this ordinance, provided further, that no license shall issue to sell liquors in less quantities than five gallons for less than one hundred dollars, $100.

Insuring.

SEC. 9. Be it further ordained, That each and every insurance company, (society) association, corporation or other organization or firm, or individual doing and conducting an insurance business of any kind, life, fire, marine, river, accident or other in this city, whether such company, (society) association, corporation, or other organization or firm, or individual is located or domiciled here or operating here, through a branch department, resident, board, local office, firm, company, corporation, or agency of any kind whatsoever shall pay a separate and distinct license on said business for each company represented, and said license shall be based on the gross annual amount of premiums on all policies issued in this city, as follows, to wit:

First class. When said premiums are three hundred thousand dollars or more, the license shall be seventeen hundred and fifty dollars ($1,750).

Second class. When said premiums are two hundred and fifty thousand dollars, and less than three hundred thousand dollars, the license shall be fifteen hundred dollars ($1,500).

Third class. When said premiums are two hundred thousand dollars, and less than two hundred and fifty thousand dollars, the license shall be twelve hundred and fifty dollars ($1,250).

Fourth class. When said premiums are one hundred and fifty thousand dollars, and less than two hundred thousand dollars, the license shall be one thousand dollars ($1,000).

Fifth class. When said premiums are one hundred thousand dollars, and less than one hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars ($750).

Sixth class. When said premiums are eighty thousand dollars, and less than one hundred thousand dollars, the license shall be seven hundred dollars ($700).

Seventh class. When said premiums are seventy thousand dollars and less than eighty thousand dollars the license shall be six hundred and fifty dollars ($650).

Eighth class. When said premiums are sixty thousand dollars and less than seventy thousand dollars, the license shall be six hundred dollars ($600).

Ninth class. When said premiums are fifty thousand dollars, and less than sixty thousand dollars, the license shall be five hundred and fifty dollars ($550).

Tenth class. When said premiums are forty thousand dollars and less than fifty thousand dollars, the license shall be five hundred dollars ($500).

Eleventh class. When said premiums are thirty thousand dollars, and less than forty thousand dollars, the license shall be four hundred and fifty dollars ($450).

Twelfth class. When said premiums are twenty thousand dollars, and less than thirty thousand dollars, the license shall be four hundred dollars ($400).

Thirteenth class. When said premiums are ten thousand dollars, and less than twenty thousand dollars, the license shall be three hundred and fifty dollars ($350).

Fourteenth class. When said premiums are less than ten thousand dollars, the license shall be three hundred dollars ($300).

Provided, that no corporation not incorporated under the laws of the State, nor any foreign society, firm or partnership, shall do business in this city except through an agent duly authorized and accredited for the purposes of said business, and for all purposes connected with licenses and taxation and service of process, said agent to be appointed by authentic act, and a certified copy of the act to be deposited in the office of the secretary of state. Any person or firm who shall fill up or sign a policy or certificate of insurance on open marine or fire insurance policy, or otherwise issue by a corporation or association, or persons, not located or represented in this State by a legally authorized agent, shall be considered an agent of such corporation or person or association, and shall be liable for all licenses, taxes and penalties enforced by the provisions of this act upon such person, corporation and association, as if repsented by a legally appointed agent.

Provided that nothing herein contained shall apply to mutual aid societies, which pay mutual insurance policies by assessments upon members, whether the same be or be not domiciled in this State.

Carrying and Storing.

168 SEC. 10. Be it further ordained, That every omnibus or regular coach, or herdic business, and for every business of transporting money, merchandise or other articles, by express or transfer, of operating one or more towboats or tugboats, or keeping a warehouse or storage-room, the license shall be based on the gross annual receipts of said business, as follows: There shall be no class of this business higher than the tenth class; when said receipts are five hundred thousand dollars or more, the license shall be four hundred dollars, $400.

Eleventh class. When gross annual receipts are four hundred thousand dollars or more, and less than five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross annual receipts are three hundred thousand dollars or more, and less than four hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross annual receipts are two hundred and fifty thousand dollars or more, and less than three hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross annual receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross annual receipts are twenty-five thousand dollars or more, and less than seventy-five thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When the receipts are less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Provided, that warehouses receiving less than three hundred and fifty dollars per year shall pay no license.

Street Railroads.

SEC. 11. That for the business of carrying on, operating, or running any horse or steam railroad, or both, for the transportation of passengers, the annual license shall be based on the annual gross receipts, as follows, viz:

First class. When annual gross receipts are five hundred thousand dollars, or in excess of that amount, the license shall be twenty-five hundred dollars, $2,500.

Second class. When annual gross receipts are over four hundred and fifty thousand dollars, and no more than five hundred thousand dollars, the license shall be twenty-two hundred and fifty dollars, $2,250.

Third class. When annual gross receipts are over four hundred thousand dollars, and no more than four hundred and fifty thousand dollars, the license shall be two thousand dollars, $2,000.

Fourth class. When annual gross receipts are over three hundred and fifty thousand dollars, and no more than four hundred thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Fifth class. When annual gross receipts are over three hundred thousand dollars, and no more than three hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When annual gross receipts are over two hundred thousand dollars, and no more than three hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When annual gross receipts are over one hundred thousand dollars, and no more than two hundred thousand dollars, the license shall be five hundred dollars, $500.

Eighth class. When annual gross receipts are over fifty thousand dollars, and no more than one hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Ninth class. When annual gross receipts are over twenty-five thousand dollars, and no more than fifty thousand dollars, the license shall be one hundred and twenty-five dollars, $125.

Tenth class. When annual gross receipts are fifteen thousand dollars or less, the license shall be seventy-five dollars.

Miscellaneous.

SEC. 12. Be it further ordained, etc., That for carrying on each business of gaslight, electric light, water works, telegraphing (including local and district telegraph) telephoning, express company, cotton compress or ginnery, cotton pickery, slaughter-house, distilling and rectifying alcoholic or malt liquors, brewing ale, beer, porter, or other malt liquors, manufacturing tobacco, cigars or cigarettes, refining sugar and molasses, manufacturing cotton-seed oil, oil cake or cotton-seed meal, the license shall be based on the gross annual receipts of each person, association of persons, business firm or corporation engaged in said business, as follows:

First class. When gross annual receipts are two million five hundred thousand dollars and over, the license shall be three thousand five hundred dollars ($3,500.)

Second class. When gross annual receipts are two million two hundred and fifty thousand dollars or more, and less than two million five hundred thousand dollars, the license shall be three thousand dollars ($3,000.)

Third class. When gross annual receipts are two million dollars or more, and less than two million two hundred and fifty thousand dollars, the license shall be twenty-five hundred dollars, ($2,500.)

Fourth class. When gross annual receipts are one million seven hundred and fifty thousand dollars or more, and less than two million dollars, the license shall be two thousand dollars, ($2,000.)

Fifth class. When gross annual receipts are one million five hundred thousand dollars or more, and less than one million seven hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, ($1,500.)

Sixth class. When gross annual receipts are one million two hundred and fifty thousand dollars or more, and less than one million five hundred thousand dollars, the license shall be one thousand dollars, ($1,000.)

Seventh class. When gross annual receipts are one million dollars or more, and less than one million two hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars ($750.)

Eighth class. When gross annual receipts are seven hundred and fifty thousand dollars or more, and less than one million dollars, the license shall be seven hundred dollars ($700.)

Ninth class. When gross annual receipts are five hundred thousand dollars or more, and less than seven hundred and fifty thousand dollars, the license shall be five hundred and fifty dollars, ($550.)

Tenth class. When gross annual receipts are two hundred and fifty thousand dollars or more, and less than five hundred thousand dollars, the license shall be four hundred dollars, ($400).

Eleventh class. When gross annual receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars, the license shall be three hundred dollars, ($300).

Twelfth class. When gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be two hundred and fifty dollars, ($250).

Thirteenth class. When gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be two hundred dollars, ($200).

Fourteenth class. When gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be one hundred and fifty dollars ($150).

Fifteenth class. When gross annual receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be one hundred dollars ($100).

Sixteenth class. When gross annual receipts are thirty-seven thousand five hundred dollars or more, and less than fifty thousand dollars, the license shall be seventy-five dollars ($75).

Seventeenth class. When gross annual receipts are twenty-five thousand dollars or more, and less than thirty-seven thousand five hundred dollars, the license shall be fifty dollars ($50).

Eighteenth class. When gross annual receipts are over twenty thousand dollars, and less than twenty-five thousand dollars, the license shall be thirty dollars ($30).

Nineteenth class. When gross annual receipts are over fifteen thousand dollars, and less than twenty thousand dollars, the license shall be twenty-five dollars ($25).

Twentieth class. When gross annual receipts are fifteen thousand dollars or less, the license shall be fifteen dollars ($15).

Amusements.

SEC. 13. Be it further ordained, That the licenses herein provided for shall be graduated in thirteen classes, or so many thereof as shall be hereinafter indicated, as follows:

That for every business of keeping a theatre, opera-house, amphitheatre, academy of music, a license shall be based upon the quantity of space devoted to spectators, to be calculated by the number of seats, or ordinary space for seats, as folllows:

First class. When the number of seats or spaces is one thousand or more, the license shall be four hundred dollars, ($400.)

Second class. When the number of seats is seven hundred and fifty or more, and less than one thousand, the license shall be three hundred dollars ($300).

Third class. When the number of seats or spaces is five hundred or more, and less than seven hundred and fifty, the license shall be two hundred and fifty dollars ($250).

Fourth class. When the number of seats is less than five hundred, the license shall be one hundred and seventy-five dollars; provided that no business of this class shall be licensed for less than one hundred and seventy-five dollars ($175).

Concert Saloons.

That for any place where can-can, clodoche or other similar female dancing or sensation performance or statuary exhibitions are shown, or any other fixed place for either theatrical, musical, minstrel, concert, dancing or variety performance, exhibition, amusement or show, the license shall be as follows: First class—Where there are twenty or more performers, the license shall be five thousand dollars. Second class—Where there are sixteen or more performers and less than twenty, the license shall be thirty-five hundred dollars. Third class—Where there are fifteen performers, or less, the license shall be two thousand dollars. And nothing in this paragraph shall be construed as licensing or permitting any performance which is prohibited by other laws, ordinances or police regulations. Provided, that nothing in this section shall apply to any respectable and legitimate place of business already paying a license under the provisions of this act, where free concerts may be given for the entertainment of guests by regularly organized orchestra only; and provided further, that the provisions of this ordinance shall not apply to private or public concerts given in duly licensed halls, or at private houses.

Museums, Traveling Shows, etc.

That no museum, menagerie, circus or other traveling show shall be permitted to make exhibitions within the city, unless they have first paid a license, based on the number of attaches, whether proprietors, performers or employés, as follows:

First class. When the number of said persons is one hundred or more, the license shall be five hundred dollars, ($500.)

Second class. When the number of said persons is seventy-five or more, and less than one hundred, the license shall be four hundred dollars, ($400.)

Third class. When the number of said persons is fifty or more, and less than seventy-five, the license shall be three hundred dollars, ($300.)

Fourth class. When the number of said persons is thirty or more, and less than fifty, the license shall be two hundred and fifty dollars. ($250.)

Fifth class. When the number of said persons is twenty or more, and less than thirty, the license shall be two hundred dollars, ($200.)

Sixth class. When the number of said persons is ten or more, and less than twenty, the license shall be one hundred and fifty dollars, ($150.)

Seventh class. When the number of said persons is five or more, and less than ten, the license shall be one hundred dollars, ($100.)

Eighth class. When the number of said persons is four, the license shall be seventy-five dollars, ($75.)

Ninth class. When the number of said persons is three, the license shall be fifty dollars, $50.

Tenth class. When the number of persons is two, the license shall be forty dollars, $40.

Eleventh class. When the number is one, the license shall be thirty dollars.

Halls.

That for every hall where balls or entertainments, not above provided for, are given, the classification for license shall be as in the first part of this section; but their prices shall only be one-fourth of those provided for in section 13; provided this shall not apply to balls given by private parties, or for charitable purposes.

Pool-rooms.

169 That for exchanges where betting is carried on, when such is allowed by law, the license shall be one thousand dollars.

Railroad and Steamship Tickets.

SEC. 14. Be it further ordained, etc., Each person carrying on the business or calling of selling or dealing in railroad or steamship tickets, whether said tickets are sold on the street, in the office of the company he represents or that of any other company, shall pay an annual license graded upon the number of companies he represents, to wit: One company, twenty-five dollars ($25); two companies, forty dollars ($40); three or more companies, fifty dollars ($50).

Peddlers.

SEC. 15. Be it further ordained, etc., Each and every peddler

or hawker shall pay an annual license graded as follows: When traveling on foot, five dollars ($5); when traveling on horseback, ten dollars ($10); when traveling in one-horse vehicle, fifteen dollars ($15); when traveling in two-horse vehicle, thirty dollars ($30); when traveling on boat, barge or other water craft, one hundred dollars ($100); provided no hawker or peddler whose stock does not exceed in value ten dollars ($10), shall be required to pay any license; and provided, further, that police officers are hereby empowered and directed to cause all peddlers and hawkers to exhibit their licenses, and if the peddlers or hawkers fail to produce or exhibit the same, the police officer shall retain their stock of merchandise until said peddlers or hawkers produce their licenses.

Sustenance and Refreshment.

SEC. 16. Be it further ordained, That for every business of keeping a hotel, where lodging and eating are combined, the license shall be based on the number of furnished lodging rooms for guests, as follows, viz:

First class. When said rooms are in number three hundred or more, the license shall be six hundred dollars, ($600).

Second class. When said rooms are in number two hundred and twenty-five or more, and less than three hundred, the license shall be five hundred dollars, ($500).

Third class. When said rooms are in number one hundred and fifty or more, and less than two hundred and twenty-five, the license shall be three hundred and seventy-five dollars, ($375).

Fourth class. When said rooms are in number seventy-five or more, and less than one hundred and fifty, the license shall be three hundred dollars, ($300).

Fifth class. When said rooms are in number forty-five or more, and less than seventy-five, the license shall be two hundred dollars, ($200.)

Sixth class. When said rooms are in number thirty or more, and less than forty-five, the license shall be one hundred and fifty dollars, ($150.)

Seventh class. When said rooms are in number fifteen or more, and less than thirty, the license shall be one hundred dollars, ($100).

Eighth class. When said rooms are in number twelve or more, and less than fifteen, the license shall be seventy-five dollars, ($75).

Ninth class. When said rooms are in number nine or more, and less than twelve, the license shall be fifty dollars, ($50).

Tenth class. When said rooms are in number six or more, and less than nine, the license shall be forty dollars, ($40).

Provided, that no person who keeps a boarding-house, in connection with schools or colleges for the accommodation of students and employees thereof, shall pay any license as boarding-house.

Provided, further, that no license shall be required when the number of said rooms is less than provided for in class ten; that for every business of lodging alone, the license shall be estimated on the same basis as for hotels, but graduated at one-half rates;

provided, that boarding-houses pay sixty per cent. of the rates of hotels.

Bar-rooms.

That for every business of bar-room, cabaret, coffee-house, café, beer saloon, liquor exchange, drinking saloon, grog shop, beer-house, beer garden, or other place where anything to be drunk or eaten on the premises is sold directly or indirectly, the license shall be based on the annual gross receipts of said business, as follows, viz:

That for this business there shall be one extra class:

Class A. When said gross annual receipts are fifty thousand dollars ($50,000) or more, the license shall be fifteen hundred dollars, $1,500.

First class. When said gross annual receipts are thirty-seven thousand dollars, $37,000, or more, and less than fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Second class. When said gross annual receipts are twenty-five thousand dollars, $25,000, or more, and less than thirty-seven thousand five hundred dollars, the license shall be eight hundred dollars, $800.

Third class. When said gross annual receipts are twenty thousand dollars, $20,000, or more, and less than twenty-five thousand dollars, the license shall be six hundred dollars, $600.

Fourth class. When said gross annual receipts are fifteen thousand dollars, $15,000, or more, and less than twenty thousand dollars, the license shall be five hundred dollars, $500.

Fifth class. When said gross annual receipts are ten thousand dollars, $10,000, or more, and less than fifteen thousand dollars, the license shall be four hundred dollars, $400.

Sixth class. When said gross annual receipts are seven thousand five hundred dollars, $7,500, or more, and less than ten thousand dollars, the license shall be three hundred dollars, $300.

Seventh class. When said gross annual receipts are five thousand dollars, $5,000, or more, and less than seven thousand five hundred dollars, the license shall be two hundred dollars, $200.

Eighth class. When said gross annual receipts are less than five thousand dollars, $5,000, the license shall be one hundred dollars, $100.

Provided, no license shall be charged for selling refreshments for charitable or religious purposes; provided, that no establishment selling or giving away, or otherwise disposing of any spirits, wines, alcoholic or malt liquors in less quantities than one pint shall pay less than one hundred dollars ($100); provided further, that when any kind of business provided for in this section shall be combined with any other business provided for in section 13, the same classification shall be made as prescribed in this section; but the price of the licenses shall be equal to the license required for each business separately.

Billiard Tables.

That for the business of keeping billiard tables, pigeon-hole, Jenny Lind, pool or bagatelle tables, and ten-pin alleys, from which revenue is derived, a license of ten dollars ($10) for each such table or alley shall be paid in addition to any other license due by the establishment in which said tables or alleys may be situated.

Confectioners.

All persons, association of persons or business firms and corporations engaged in the sale of soda water, mead, confections, cakes, etc., exclusively, shall be rated as follows:

First class. When gross sales are ten thousand dollars, or in excess of that amount, the license shall be fifty dollars, $50.

Second class. When gross sales are eight thousand dollars or more, and less than ten thousand dollars, the license shall be forty dollars, $40.

Third class. When gross sales are six thousand dollars or more, and under eight thousand dollars, the license shall be thirty dollars, $30.

Fourth class. When gross sales are four thousand dollars or more, and under six thousand dollars, the license shall be twenty dollars.

Fifth class. When gross sales are three thousand dollars or more, and under four thousand dollars, the license shall be fifteen dollars, $15.

Sixth class. When gross sales are less than three thousand dollars, and more than two thousand dollars, the license shall be ten dollars, $10.

Seventh class. When gross sales are less than two thousand dollars ($2,000), the license shall be five dollars, $5.

Provided, that this provision shall not apply to places doing the business herein named, where alcoholic, vinous or malt liquors are sold.

Provided further, that druggists, etc., selling soda water, mead, etc., shall be required to take out a license under this ordinance.

Professional and Personal Occupation.

SEC. 17. Be it further ordained, That the annual license for the kinds of business hereinafter named shall be graduated in thirteen classes, as follows:

That for every individual or company carrying on the profession or business agency for steamboats, draying, trucking, keeping cabs, carriages, hacks or horses for hire, undertakers, owners or lessees of toll bridges and ferries, master builders, stevedores and mechanics, who employ assistance, the license for said profession or occupation—

First class. When gross annual receipts are twenty thousand dollars or more, the license shall be one hundred and twenty dollars, $120.

Second class. When gross annual receipts are sixteen thou-

sand dollars, or more, and less than twenty thousand dollars, the license shall be one hundred and five dollars, $105.

Third class. When gross annual receipts are twelve thousand dollars or more, and less than sixteen thousand dollars, the license shall be ninety-five dollars, $95.

Fourth class. When gross annual receipts are ten thousand dollars or more, and less than twelve thousand dollars, the license shall be eighty dollars, $80.

Fifth class. When gross annual receipts are eight thousand dollars or more, and less than ten thousand dollars, the license shall be seventy dollars ($70).

Sixth class. When gross annual receipts are six thousand dollars or more, and less than eight thousand dollars, the license shall be sixty dollars ($60).

Seventh class. When gross annual receipts are five thousand dollars or more, and less than six thousand dollars, the license shall be fifty dollars ($50).

Eighth class. When gross annual receipts are four thousand dollars or more, and less than five thousand dollars, the license shall be forty dollars ($40).

Ninth class. When gross annual receipts are three thousand dollars or more, and less than four thousand dollars, the license shall be thirty dollars ($30).

Tenth class. When gross annual receipts are two thousand dollars or more, and less than three thousand dollars, the license shall be twenty-five dollars ($25).

Eleventh class. When gross annual receipts are one thousand dollars or more, and less than two thousand dollars, the license shall be twenty dollars ($20).

Twelfth class. When gross annual receipts are seven hundred and fifty dollars or more, and less than one thousand dollars, the license shall be fifteen dollars ($15).

Thirteenth class. When the said gross annual receipts are less than seven hundred and fifty dollars, the license shall be four dollars, ($4). That every individual or individuals carrying on the business or profession of physician, attorney-at-law, editor, dentist, oculist, photographer, by whom any articles are sold or dealt in other than the simple photographs of various kinds taken by himself, agency for publications, freight, ticket, claims, patent rights, and all other business not herein provided for, shall be graded the same as above set forth, but the license shall be one-half of those established by this section, and provided no license shall be issued hereunder for less than five dollars ($5).

Traveling Agent.

SEC. 18. Be it further ordained, That all traveling vendors of stoves, lightning rods, and clocks, shall pay a license annually of two hundred dollars ($200).

SEC. 19. Be it further ordained, That when any two or more kinds of business are combined, except as herein expressly pro-

vided for, there shall be a separate license required for each kind of business.

SEC. 20. Be it further ordained, That the annual receipts, capital sales and premiums in this act, referred to as a basis of license, are those for the year for which the license is granted; the standard for their estimation shall be *prima facie* of the preceding year if the business has been conducted previously by the same parties, or by parties to whom they claim to be successors. If the firm or company be new the amount of gross sales for the first two months shall be considered the basis, and six times that amount shall be estimated as the annual receipts of such business; provided, that any person commencing business after the first of July, shall pay one-half of the above rates.

SEC. 21. Be it further ordained, That the business of the previous year, as also the actual condition and results of business of the current year, for new firms, associations or corporations, for the purpose of calculating licenses, shall be ascertained by the treasurer in the sworn statement of the person or persons in interest, his or their duly authorized agent or officer, made before the treasurer or his deputy, provided, that if the treasurer be not satisfied with the said sworn statements, he shall traverse the same by a rule, taken in proper court, as provided in the constitution, which rule shall be tried summarily, whether an answer be thereto filed or not. On the trial of said rule, the books and written entries and memoranda of said person or persons, firms, companies, corporations, or parties, shall be brought into court and subjected to the inspection and examination of the court, the officer who took the rule, and such experts as he may employ or the court may appoint; pro-
170 vided, that this inspection shall not be construed as entitling the defendant to introduce in evidence said books and documents any more than he would have been without such inspection; provided, also, that the license shall issue in accordance with the said sworn statement, notwithstanding the prospect of pendency of the rule, and the final rectification shall be made as ordered by the court.

SEC. 22. Be it further ordained, That if any business shall be conducted without a license, in case- herein provided, the officer whose duty it is to issue licenses, shall, through the city attorney, on motion in the proper courts, as provided in the constitution, and which shall be without deposit or advance cost, take a rule on the party or parties doing such business, to show cause on the fifth day, exclusive of holidays, after the service thereof, which may be tried out of term times and in chambers, and shall always be tried by preference, why said party or parties should not pay the amount of the license claimed and penalties, or be ordered to cease from further pursuit of said business until after having obtained a license; and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the city, for the amount decreed to be due by the defendant for license and penalty and costs heretofore and hereinafter provided for, and shall be executed in the same manner as other judgments, and every violation of the

order of court shall be considered as a contempt thereof, and punished according to law.

It is hereby expressly provided that each person, association of persons, business firm or corporation, required to take out a license under this ordinance, shall be required to post the same in a conspicuous place, in his or their place of business, under a penalty of not more than twenty-five dollars, to be imposed by the recorder of the district in which the offense is committed, and in default of payment of the fine, to imprisonment in the parish prison for a term not to exceed thirty days; and every day that a party shall fail to post said license shall constitute a separate offense and shall be punishable accordingly, and it is hereby made the duty of the police to inspect all places of business and make affidavits against persons violating this ordinance, and it is made the duty of the police to report to the mayor of this city all persons conducting business without licenses.

SEC. 23. Be it further ordained, That the only legal evidence that a license has been paid shall be the appropriate form of license issued by the comptroller, and no receipts issued in place of the license itself shall be valid, and this clause shall be construed to prevent the treasurer from issuing a receipt, in lieu of the appropriate form, to any person, association of persons, or business corporations; provided, that nothing herein contained shall be so construed as to exclude oral evidence of lost or destroyed licenses.

SEC. 24. Be it further ordained, That the treasurer shall prepare and keep a book in which he shall record or file the statements made under oath of all persons, association of persons, business firms or corporation-, who may apply for license to pursue any trade, profession, vocation, calling or business under this act.

SEC. 25. Be it further ordained, That the treasure- and his assistants are hereby empowered and required to administer oath to any person, president or proper officer, or agent of any association of persons, business firms or corporations, applying for license under this ordinance; and the treasurer or his assistant, or any notary public or other officer empowered to administer oaths, who shall sign any jurat or certify to the correctness of any oath without administering the said oath in person to the applicant, shall be deemed guilty of a misdemeanor, and on conviction be dealt with in accordance with existing laws, relative to the dismissal from office of such several officers, and in addition to which they shall be subject to a fine of not less than one hundred dollars, nor more than one thousand dollars. That when the oath is taken before the treasurer no charge shall be made for the same. Any false swearing as to the gross receipts of any person or persons, or corporations, through their president or proper officer, or agent applying for license, shall constitute the crime of perjury, to be punished as directed by existing criminal law- of the State.

SEC. 26. Be it further ordained, That the treasurer is hereby required to keep a license register, in which he shall enter the names of every person, association of persons, business firms or corporations, with the trade, profession, vocation, calling or business

pursued, the class and graduation of the same, the amount of license thereon and the date of the collection or payment thereof.

SEC. 27. Be it further ordained, That the treasurer or assistant violating any of the provisions of this ordinance, or who shall willfully rate any person, association of persons, or business firms and corporations, at a less graduation than the law contemplates, or who shall issue to any said persons, association of persons or business firms and corporations, a license for a less sum than that corresponding with their graduation, shall be deemed guilty of a misdemeanor in office, and shall on conviction before competent authority, be summarily dismissed therefrom.

SEC. 28. Be it further ordained, That all unpaid licenses shall bear interest at the rate of two per cent. per month from the first day of March, and the payment thereof shall be secured by first privilege in favor of the city, and the treasurer shall collect said license and interest in the manner provided by existing laws.

SEC. 29. Be it further ordained, That all gross receipts, derived from any mercantile business or occupation whatsoever, as hereinbefore provided, whether earned within or without the city, shall form the proper basis upon which all licenses shall be collected by the treasurer.

SEC. 30. Be it further ordained, That a person, firm or company having more than one place of business shall pay a separate license for each place of business.

SEC. 31. Be it further ordained, That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Adopted by the council of the city of New Orleans, December 9, 1890.

ED. T. MANNING,
Clerk of Council.

Approved Dec. 10, 1890.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

171 ORDINANCES.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 10, 1891.

No. 5833, council series.

An ordinance to levy, collect and enforce payment of annual license taxes upon all persons, associations of persons, or business firms and corporations, pursuing any trade, profession, vocation, calling or business in the city of New Orleans, except those expressly exempted from such license taxes by articles 206 and 207 of the constitution.

SECTION 1. Be it ordained by the council of the city of New Orleans, That there is hereby levied an annual license tax for the

year A. D. 1892, upon each person, association of persons or business firms and corporations, pursuing any trade, profession, vocation, calling or business, except those expressly exempt from such license tax by articles 206 and 207 of the constitution.

SEC. 2. Be it further ordained, That on the second day of January, A. D. 1892, the city treasurer shall begin to collect, and shall collect as fast as possible from each of the persons or business firms, association of persons and corporations, pursuing any trade, profession, vocation, calling or business in the city of New Orleans a license tax as hereinafter graduated.

All licenses shall be due and collectible during the first two (2) months of the year, and all unpaid licenses shall become delinquent on the first day of March, and all firms who commence business after that date shall become delinquent unless the license is paid within ten days.

SEC. 3. Be it further ordained, That the annual license for all kinds of business hereinafter named, except as afterwards provided, shall be graduated in twenty-five classes.

Manufacturers.

SEC. 4. That for carrying on each business of manufacturing not expressly exempted by articles 206 and 207 of the constitution, the license shall be based on gross annual receipts of said business as follows, to wit:

First class. When said receipts are ten million dollars or more, the license shall be eight thousand dollars ($8,000).

Second class. When the said receipts are nine million dollars or more, and under ten million dollars, the license shall be seven thousand dollars, $7,000.

Third class. When said receipts shall be eight million dollars or more, and under nine million dollars, the license shall be five thousand six hundred dollars, $5,600.

Fourth class. When said receipts are seven million dollars or more, and under eight million dollars, the license shall be forty-nine hundred dollars, $4,900.

Fifth class. When said receipts are six million dollars or more, and under seven million dollars, the license shall be forty-two hundred dollars, $4,200.

Sixth class. When said receipts are five million dollars or more, and under six million dollars, the license shall be thirty-five hundred dollars, $3,500.

Seventh class. When said receipts are four million dollars or more, and under five million dollars, the license shall be twenty-eight hundred dollars, $2,800.

Eighth class. When said receipts are three million dollars or more, and under four million dollars, the license shall be twenty-one hundred dollars, $2,100.

Ninth class. When said receipts are two million dollars or more, and under three million dollars, the license shall be fourteen hundred dollars, $1,400.

Tenth class. When said receipts are one million dollars or more

and under two million dollars, the license shall be seven hundred dollars, $700.

Eleventh class. When said receipts are seven hundred and fifty thousand dollars or more, and under one million dollars, the license shall be five hundred and twenty-five dollars, $525.

Twelfth class. When said receipts shall be five hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be three hundred and fifty dollars, $350.

Thirteenth class. When said receipts are four hundred thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and eighty dollars, $280.

Fourteenth class. When said receipts are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be two hundred and ten dollars, $210.

Fifteenth class. When said receipts are two hundred thousand dollars or more, and under three hundred thousand dollars, the license shall be one hundred and forty dollars, $140.

Sixteenth class. When said receipts are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and five dollars, $105.

Seventeenth class. When said receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy dollars, $70.

Eighteenth class. When said receipts are ninety-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be sixty-five and one-half dollars, $65.50.

Nineteenth class. When said receipts are ninety thousand dollars or more, and less than ninety-five thousand dollars, the license shall be sixty-three dollars, $63.

Twentieth class. When said receipts are seventy-five thousand dollars or more, and under ninety thousand dollars, the license shall be fifty-two and one-half dollars, $52.50.

Twenty-first class. When said receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be thirty-five dollars, $35.

Twenty-second class. When said receipts are forty thousand dollars or more, and less than fifty thousand dollars, the license shall be twenty-eight dollars, $28.

Twenty-third class. When said receipts are thirty thousand dollars or more, and less than forty thousand dollars, the license shall be twenty-one dollars, $21.

Twenty-fourth class. When said receipts are twenty-five thousand dollars or more, and less than thirty thousand dollars, the license shall be nineteen and one-half dollars, $19.50.

Twenty-fifth class. When said receipts are less than twenty-five thousand dollars, the license shall be fifteen dollars, $15.

Banking.

SEC. 5. That for each business of carrying on a bank, banking company, association, corporation or agency, the license shall be

based on the declared or nominal capital and surplus, whether said capital and surplus is owned, or in use, or on deposit in the State or elsewhere, as follows, to wit:

First class. When said declared or nominal capital and surplus is five million dollars or more the license shall be four thousand five hundred dollars, $4,500.

Second class. When said declared or nominal capital and surplus is four million dollars or more, and less than five million dollars, the license shall be four thousand dollars, $4,000.

Third class. When said declared or nominal capital and surplus is three million dollars or more, and less than four million dollars, the license shall be three thousand two hundred dollars, $3,200.

Fourth class. When said declared or nominal capital and surplus is two million dollars or more, and less than three million dollars, the license shall be twenty-four hundred dollars, $2,400.

Fifth class. When said declared or nominal capital and surplus is one million five hundred thousand dollars or more, and less than two million dollars, the license shall be sixteen hundred dollars, $1,600.

Sixth class. When said declared or nominal capital and surplus is one million dollars or more, and under one million five hundred thousand dollars, the license shall be twelve hundred dollars, $1,200.

Seventh class. When said declared or nominal capital and surplus is eight hundred thousand dollars or more, and under one million dollars, the license shall be eight hundred dollars, $800.

Eighth class. When said declared or nominal capital and surplus is six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be six hundred dollars, $600.

Ninth class. When said declared or nominal capital and surplus is four hundred thousand dollars or more and under six hundred thousand dollars, the license shall be four hundred and fifty dollars, $450.

Tenth class. When said declared or nominal capital *or* surplus is three hundred thousand dollars or more and under four hundred thousand dollars, the license shall be three hundred and fifty dollars, $350.

Eleventh class. When said declared or nominal capital and surplus is two hundred thousand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Twelfth class. When said declared or nominal capital and surplus is one hundred thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Thirteenth class. When said declared or nominal capital and surplus is fifty thousand dollars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

The declared or nominal capital or surplus as provided in this section, shall be ascertained and based upon the annual statement made in pursuance of existing laws to the State treasurer.

For each business of carrying on a private banking-house business or agency, there shall be three classes only, and the license shall be based on the total declared capital invested in said business, whether said capital is owned or in use or deposit in this State or elsewhere, as follows:

First class. When said capital is five hundred thousand dollars or more the license shall be five hundred dollars, $500.

Second class. When said capital is two hundred and fifty thousand dollars or more, and under five hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Third class. When said capital is under two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

Commission Business.

SECTION 6. Be it further ordained, etc., That for carrying on the business pursuits known as cotton factorage and commission business, sugar factorage, grain and produce commission houses, or any other factorage or commission business, brokerage in money, stocks, bonds, real estate, produce, sugar, cotton or other brokerage business, whether buying or selling for actual spot or future delivery, the license shall be based on the gross annual commissions and brokerage on sales and purchases.

First class. When gross annual commissions exceed two hundred and fifty thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Second class. When gross annual commissions exceed two hundred thousand dollars and not more than two hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Third class. When gross annual commissions exceed one hundred and seventy-five thousand dollars, and no more than two hundred thousand dollars, the license shall be twelve hundred and fifty dollars, $1,250.

Fourth class. When gross annual commissions exceed one hundred and fifty thousand dollars, and no more than one hundred and seventy-five thousand dollars, the license shall be eleven hundred and twenty-five dollars, $1,125.

Fifth class. When annual gross commissions exceed one hundred and twenty-five thousand dollars, and no more than one hundred and fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Sixth class. When gross annual commissions exceed one hundred thousand dollars, and no more than one hundred and twenty-five thousand dollars, the license shall be seven hundred and fifty dollars, $750.

Seventh class. When annual gross commissions exceed eighty thousand dollars, and no more than one hundred thousand dollars, the license shall be six hundred dollars, $600.

Eighth class. When annual gross commissions exceed sixty-five thousand dollars, and no more than eighty thousand dollars, the license shall be five hundred dollars, $500.

Ninth class. When annual gross commissions exceed fifty thousand dollars, and are no more than sixty-five thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Tenth class. When annual gross commissions exceed forty thousand dollars, and are no more than fifty thousand dollars, the license shall be three hundred dollars, $300.

Eleventh class. When annual gross commissions exceed thirty thousand dollars, and are no more than forty thousand dollars, the license shall be two hundred and twenty-five dollars, $225.

Twelfth class. When annual gross commissions exceed twenty-five thousand dollars, and are no more than thirty thousand dollars, the license shall be one hundred and eighty-seven dollars and fifty cents, $187.50.

Thirteenth class. When annual gross commissions exceed twenty thousand dollars, and are no more than twenty-five thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fourteenth class. When annual gross commissions exceed fifteen thousand dollars, and are no more than twenty thousand dollars, the license shall be one hundred and twelve dollars and fifty cents, $112.50.

Fifteenth class. When annual gross commissions exceed ten thousand dollars, and are no more than fifteen thousand dollars, the license shall be seventy-five dollars, $75.

Sixteenth class. When annual gross commissions exceed
172 five thousand dollars, and are no more than ten thousand dollars, the license shall be fifty dollars, $50.

Seventeenth class. When the annual gross commissions are five thousand dollars or less, the license shall be twenty-five dollars, $25.

The secretaries of the various cotton, stock and produce exchanges shall furnish the city treasurer with a full and complete list of the names of the members of said associations when called upon; and in case of failure of the said secretary to furnish said list, it shall be the duty of said treasurer to compel them to furnish said list, by serving a simple rule to show cause before any court of competent jurisdiction, and all costs of said rule shall be paid by the defendant in said proceeding.

Pawn Shops.

SEC. 7. Be it further ordained, etc., That each and every pawnbroker or keeper of a loan office, whose capital, in actual use, is fifty thousand dollars or more, the license shall be five hundred dollars, $500; that when the capital in actual use is less than fifty thousand dollars, the license shall be three hundred and seventy-five dollars, $375.

Wholesale and Retail Dealers.

SEC. 8. Be it further ordained, etc., That for every wholesale mercantile business, whether as principal, agent on commission by auction, representing foreign merchants or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are seven million dollars or over, the license shall be three thousand five hundred dollars, $3,500.

Second class. When gross sales are six million five hundred thousand dollars or more, and under seven million dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are six million dollars or more, and under six million five hundred thousand dollars, the license shall be two thousand five hundred dollars, $2,500.

Fourth class. When gross sales are five million five hundred thousand dollars or more and under six million dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are five million dollars or more, and under five million five hundred thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When gross sales are four millions dollars or more, and under five million dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are three million dollars or more, and under four million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are two million dollars or more, and under two million five hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are one million five hundred thousand dollars or more, and under two million dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are eight hundred thousand dollars or more, and under one million dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are six hundred thousand dollars or more, and under eight hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are five hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are two hundred and fifty thousand dollars and not more than five hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are less than two hundred and fifty thousand dollars, the license shall be fifty dollars, $50.

Provided, that no person or persons shall be deemed wholesale dealers unless he or they sell by the original or unbroken package or barrel only; and provided further, that no person or persons shall be deemed wholesale dealers unless he or they sell to dealers for resale. If they sell in less quantities than original and unbroken pack-

ages or barrels they shall be considered retail dealers, and pay license as such. That for every business of selling at retail, whether as principal, agent on commission or otherwise, the license shall be based on the gross annual amount of sales, as follows:

First class. When gross sales are three million five hundred thousand dollars or over, the license shall be thirty-five hundred dollars, $3,500.

Second class. When gross sales are three million dollars or more, and less than three million five hundred thousand dollars, the license shall be three thousand dollars, $3,000.

Third class. When gross sales are two million five hundred thousand dollars or more, and under three million dollars, the license shall be twenty-five hundred dollars, $2,500.

Fourth class. When gross sales are two million- of dollars or more, and under two million five hundred thousand dollars, the license shall be two thousand dollars, $2,000.

Fifth class. When gross sales are one million five hundred thousand dollars or more, and under two million dollars, the license shall be one thousand five hundred dollars, $1,500.

Sixth class. When gross sales are one million dollars or more, and under one million five hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When gross sales are seven hundred and fifty thousand dollars, and under one million dollars, the license shall be seven hundred and fifty dollars, $750.

Eighth class. When gross sales are seven hundred thousand dollars or more, and under seven hundred and fifty thousand dollars, the license shall be seven hundred dollars, $700.

Ninth class. When gross sales are six hundred thousand dollars or more, and under seven hundred thousand dollars, the license shall be five hundred and fifty dollars, $550.

Tenth class. When gross sales are four hundred thousand dollars or more, and under six hundred thousand dollars, the license shall be four hundred dollars, $400.

Eleventh class. When gross sales are three hundred thousand dollars or more, and under four hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross sales are two hundred and fifty thousand dollars or more, and under three hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross sales are two hundred thousand dollars or more, and under two hundred and fifty thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross sales are one hundred and fifty thousand dollars or more, and under two hundred thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross sales are one hundred thousand dollars or more, and under one hundred and fifty thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross sales are seventy-five thousand dol-

lars or more, and under one hundred thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross sales are fifty thousand dollars or more, and under seventy-five thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross sales are forty thousand dollars or more, and under fifty thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When gross sales are thirty thousand dollars or more, and under forty thousand dollars, the license shall be thirty dollars, $30.

Twentieth class. When gross sales are twenty-five thousand dollars or more, and under thirty thousand dollars, the license shall be twenty-five dollars, $25.

Twenty-first class. When gross sales are twenty thousand dollars or more, and less than twenty-five thousand dollars, the license shall be twenty dollars, $20.

Twenty-second class. When gross sales are fifteen thousand dollars or more, and less than twenty thousand dollars, the license shall be fifteen dollars, $15.

Twenty-third class. When gross sales are less than fifteen thousand dollars, and more than five thousand dollars, the license shall be ten dollars, $10.

Twenty-fourth class. When gross sales are five thousand dollars or less, the license shall be five dollars, $5.

Provided, that if any distilled, vinous, malt or other kinds of mixed liquors be sold in connection with the business of retail merchant, grocer, restaurant, oyster-house, confectionery or druggist, in less quantities than five gallons, the license for such additional business shall be as hereinafter provided for bar-rooms in section 16 of this ordinance; provided further, that no license shall issue to sell liquors in less quantities than five gallons for less than one hundred dollars, $100.

Insuring.

SEC. 9. Be it further ordained, That each and every insurance company (society), association, corporation or other organization or firm, or individual doing and conducting an insurance business of any kind, life, fire, marine, river accident or other in this city, whether such company (society), association, corporation, or other organization or firm, or individual is located or domiciled here or operating here, through a branch department, resident board, local office, firm, company, corporation, or agency of any kind whatsoever shall pay a separate and distinct license on said business for each company represented, and said license shall be based on the gross annual amount of premiums on all policies issued in this city, as follows, to wit:

First class. When said premiums are three hundred thousand dollars or more, the license shall be seventeen hundred and fifty dollars ($1,750).

Second class. When said premiums are two hundred and fifty thousand dollars, and less than three hundred thousand dollars, the license shall be fifteen hundred dollars ($1,500).

Third class. When said premiums are two hundred thousand dollars, and less than two hundred and fifty thousand dollars, the license shall be twelve hundred and fifty dollars ($1,250).

Fourth class. When said premiums are one hundred and fifty thousand dollars, and less than two hundred thousand dollars, the license shall be one thousand dollars ($1,000).

Fifth class. When said premiums are one hundred thousand dollars, and less than one hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars ($750).

Sixth class. When said premiums are eighty thousand dollars, and less than one hundred thousand dollars, the license shall be seven hundred dollars ($700).

Seventh class. When said premiums are seventy thousand dollars, and less than eighty thousand dollars, the license shall be six hundred and fifty dollars ($650).

Eighth class. When said premiums are sixty thousand dollars, and less than seventy thousand dollars, the license shall be six hundred dollars ($600).

Ninth class. When said premiums are fifty thousand dollars, and less than sixty thousand dollars, the license shall be five hundred and fifty dollars ($550).

Tenth class. When said premiums are forty thousand dollars, and less than fifty thousand dollars, the license shall be five hundred dollars ($500).

Eleventh class. When said premiums are thirty thousand dollars, and less than forty thousand dollars, the license shall be four hundred and fifty dollars ($450).

Twelfth class. When said premiums are twenty thousand dollars, and less than thirty thousand dollars, the license shall be four hundred dollars ($400).

Thirteenth class. When said premiums are ten thousand dollars, and less than twenty thousand dollars, the license shall be three hundred and fifty dollars ($350).

Fourteenth class. When said premiums are less than ten thousand dollars, and not more than three thousand dollars, the license shall be three hundred dollars ($300.)

Fifteenth class. When said premiums are less than three thousand dollars, the license shall be $150.

Provided that no corporation not incorporated under the laws of the State, nor any foreign society, firm or partnership, shall do business in this city except through an agent duly authorized and accredited for the purpose of said business and for all purposes connected with licenses and taxation and service of process; said agent to be appointed by authentic act, and a certified copy of the act to be deposited in the office of the secretary of state. Any person or firm who shall fill up or sign a policy or certificate of insurance on open marine or fire insurance policy, or otherwise issue by a corporation or association, or persons, not located or represented

in this State by a legally authorized agent, shall be considered an agent of such corporation or person or association, and shall be liable for all licenses, taxes and penalties enforced by the provisions of this act upon such person, corporation and association, as if represented by a legally appointed agent.

Provided that nothing herein contained shall apply to mutual aid societies, which pay mutual insurance policies by assessments upon members, whether the same be or be not domiciled in this State.

Carrying and Storing.

SEC. 10. Be it further ordained, That every omnibus or regular coach or herdic business, and for every business of transport-
173 ing money, merchandise or other articles, by express or transfer, of operating one or more towboats, or tugboats or keeping a warehouse or storage-room, the license shall be based on the gross annual receipts of said business, as follows: There shall be no class of this business higher than the tenth class; when said receipts are five hundred thousand dollars or more, the license shall be four hundred dollars, $400.

Eleventh class. When gross annual receipts are four hundred thousand dollars or more, and less than five hundred thousand dollars, the license shall be three hundred dollars, $300.

Twelfth class. When gross annual receipts are three hundred thousand dollars or more, and less than four hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Thirteenth class. When gross annual receipts are two hundred and fifty thousand dollars or more, and less than three hundred thousand dollars, the license shall be two hundred dollars, $200.

Fourteenth class. When gross annual receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars, the license shall be one hundred and fifty dollars, $150.

Fifteenth class. When gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be one hundred dollars, $100.

Sixteenth class. When gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be seventy-five dollars, $75.

Seventeenth class. When gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be fifty dollars, $50.

Eighteenth class. When gross annual receipts are twenty-five thousand dollars or more, and less than seventy-five thousand dollars, the license shall be forty dollars, $40.

Nineteenth class. When the receipts are less than twenty-five thousand dollars, the license shall be thirty dollars, $30.

Provided, that warehouses receiving less than three hundred and fifty dollars per year shall pay no license.

Street Railroads.

SEC. 11. That for the business of carrying on, operating, or running any horse or steam railroad, or both, for the transportation of passengers, the annual license shall be based on the annual gross receipts, as follows, viz:

First class. When annual gross receipts are five hundred thousand dollars, or in excess of that amount, the license shall be twenty-five hundred dollars, $2,500.

Second class. When annual gross receipts are over four hundred and fifty thousand dollars, and no more than five hundred thousand dollars, the license shall be twenty-two hundred and fifty dollars, $2,250.

Third class. When annual gross receipts are over four hundred thousand dollars, and no more than four hundred and fifty thousand dollars, the license shall be two thousand dollars $2,000.

Fourth class. When annual gross receipts are over three hundred and fifty thousand dollars, and no more than four hundred thousand dollars, the license shall be seventeen hundred and fifty dollars, $1,750.

Fifth class. When annual gross receipts are over three hundred thousand dollars, and no more than three hundred and fifty thousand dollars, the license shall be fifteen hundred dollars, $1,500.

Sixth class. When annual gross receipts are over two hundred thousand dollars, and no more than three hundred thousand dollars, the license shall be one thousand dollars, $1,000.

Seventh class. When annual gross receipts are over one hundred thousand dollars, and no more than two hundred thousand dollars, the license shall be five hundred dollars, $500.

Eighth class. When annual gross receipts are over fifty thousand dollars, and no more than one hundred thousand dollars, the license shall be two hundred and fifty dollars, $250.

Ninth class. When annual gross receipts are over twenty-five sand dollars, and no more than fifty thousand dollars, the license shall be one hundred and twenty-five dollars, $125.

Tenth class. When annual gross receipts are fifteen thousand dollars or less, the license shall be seventy-five dollars.

Miscellaneous.

SEC. 12. Be it further ordained, etc., That for carrying on each business of gas light, electric light, water works, telegraphing (including local and district telegraph) telephoning, express company, cotton compress or ginnery, cotton pickery, slaughter-house, distilling and rectifying alcoholic or malt liquors, brewing ale, beer, porter, or other malt liquors, manufacturing tobacco, cigars or cigarettes, refining sugar and molasses, manufacturing cotton-seed oil, oil cake or cotton-seed meal, the license shall be based on the gross annual receipts of each person, association of persons, business firm or corporation engaged in said business, as follows:

First class. When gross annual receipts are two million five hun-

dred thousand dollars and over, the license shall be three thousand five hundred dollars, ($3,500.)

Second class. When gross annual receipts are two million two hundred and fifty thousand dollars or more, and less than two million five hundred thousand dollars, the license shall be three thousand dollars ($3,000.)

Third class. When gross annual receipts are two million dollars or more, and less than two million two hundred and fifty thousand dollars, the license shall be twenty-five hundred dollars ($2,500.)

Fourth class. When gross annual receipts are one million seven hundred and fifty thousand dollars or more and less than two million dollars, the license shall be two thousand dollars ($2,000.)

Fifth class. When gross annual receipts are one million five hundred thousand dollars or more, and less than one million seven hundred and fifty thousand dollars, the license shall be fifteen hundred dollars ($1,500.)

Sixth class. When gross annual receipts are one million two hundred and fifty thousand dollars or more, and less than one million five hundred thousand dollars, the license shall be one thousand dollars ($1,000.)

Seventh class. When gross annual receipts are one million dollars or more, and less than one million two hundred and fifty thousand dollars, the license shall be seven hundred and fifty dollars ($750.)

Eighth class. When gross annual receipts are seven hundred and fifty thousand dollars or more, and less than one million dollars, the license shall be seven hundred dollars ($700).

Ninth class. When gross annual receipts are five hundred thousand dollars or more, and less than seven hundred and fifty thousand dollars, the license shall be five hundred and fifty dollars ($550).

Tenth class. When gross annual receipts are two hundred and fifty thousand dollars or more, and less than five hundred thousand dollars, the license shall be four hundred dollars ($400).

Eleventh class. When gross annual receipts are two hundred thousand dollars or more, and less than two hundred and fifty thousand dollars, the license shall be three hundred dollars ($300).

Twelfth class. When gross annual receipts are one hundred and fifty thousand dollars or more, and less than two hundred thousand dollars, the license shall be two hundred and fifty dollars ($250).

Thirteenth class. When gross annual receipts are one hundred thousand dollars or more, and less than one hundred and fifty thousand dollars, the license shall be two hundred dollars ($200).

Fourteenth class. When gross annual receipts are seventy-five thousand dollars or more, and less than one hundred thousand dollars, the license shall be one hundred and fifty dollars.

Fifteenth class. When gross annual receipts are fifty thousand dollars or more, and less than seventy-five thousand dollars, the license shall be one hundred dollars ($100).

Sixteenth class. When gross annual receipts are thirty-seven thousand five hundred dollars or more, and less than fifty thousand dollars, the license shall be seventy-five dollars ($75).

Seventeenth class. When the gross annual receipts are twenty-five thousand dollars or more, and less than thirty-seven thousand five hundred dollars, the license shall be fifty dollars ($50).

Eighteenth class. When gross annual receipts are over twenty thousand dollars, and less than twenty-five thousand dollars, the license shall be thirty dollars ($30).

Nineteenth class. When gross annual receipts are over fifteen thousand dollars, and less than twenty thousand dollars, the license shall be twenty-five dollars ($25).

Twentieth class. When gross annual receipts are fifteen thousand dollars or less, the license shall be fifteen dollars ($15.)

Amusements.

SEC. 13. Be it further ordained, That the licenses herein provided for shall be graduated in thirteen classes, or so many thereof as shall be hereinafter indicated, as follows:

That for every business of keeping a theatre, opera-house, amphitheatre, academy of music, a license shall be based upon the quantity of space devoted to spectators, to be calculated by the number of seats or ordinary space for seats as follows:

First class. When the number of seats or spaces is one thousand or more, the license shall be four hundred dollars ($400.)

Second class. When the number of seats is seven hundred and fifty or more, and less than one thousand, the license shall be three hundred dollars ($300.)

Third class. When the number of seats or spaces is five hundred or more, and less than seven hundred and fifty, the license shall be two hundred and fifty dollars ($250.)

Fourth class. When the number of seats is less than five hundred, the license shall be one hundred and seventy-five dollars: Provided, that no business of this class shall be licensed for less than one hundred and seventy-five dollars ($175.)

Concert Saloons.

That for any place where can-can, clodoche or other similar female dancing or sensation performance or statuary exhibitions are shown, or any other fixed place for either theatrical, musical, minstrel, concert, dancing or variety performances, exhibitions, amusement or show, the license shall be as follows: First class. Where there are twenty or more performers, the license shall be five thousand dollars. Second class. Where there are sixteen or more performers and less than twenty, the license shall be thirty-five hundred dollars. Third class. When there are fifteen performers, or less, the license shall be two thousand dollars. And nothing in this paragraph shall be construed as licensing or permitting any performance which is prohibited by other laws, ordinances or police regulations. Provided, that nothing in this section shall apply to any respectable and legitimate place of business already paying a license under the provisions of this act, where free concerts may be given for the entertainment of guests by regularly organized orchestra

only; and provided further, that the provisions of this ordinance shall not apply to private or public concerts given in duly licensed halls or at private houses.

Museums, Traveling Shows, etc.

That no museum, menagerie, circus or other traveling show shall be permitted to make exhibitions within the city, unless they have first paid a license, based on the number of attaches, whether proprietors, performers or employés, as follows:

First class. When the number of said persons is one hundred or more, the license shall be five hundred dollars ($500).

Second class. When the number of said persons is seventy-five or more, and less than one hundred, the license shall be four hundred dollars ($400).

Third class. When the number of said persons is fifty or more, and less than seventy-five, the license shall be three hundred dollars ($300).

Fourth class. When the number of said persons is thirty or more, and less than fifty, the license shall be two hundred and fifty dollars ($250).

Fifth class. When the number of said persons is twenty or more, and less than thirty, the license shall be two hundred dollars ($200.)

Sixth class. When the number of said persons is ten or more, and less than twenty, the license shall be one hundred and fifty dollars, ($150).

Seventh class. When the number of said persons is five or more, and less than ten, the license shall be one hundred dollars ($100.)

Eighth class. When the number of said persons is four, the license shall be seventy-five dollars ($75).

Ninth class. When the number of said persons is three, the license shall be fifty dollars ($50).

Tenth class. When the number of persons is two, the license shall be forty dollars (40).

Eleventh class. When the number is one, the license shall be thirty dollars (30).

Halls.

That for every hall where balls *are* entertainments, not above provided for, are given, the classification for license shall be as in the first part of this section, but their prices shall only be one-fourth of those provided for in section 13; provided, this shall not apply to balls given by private parties or for charitable purposes.

Pool-rooms.

That for exchanges where betting is carried on, when such is allowed by law, the license shall be one thousand dollars.

174 *Railroad and Steamship Tickets.*

SEC. 14. Be it further ordained, etc., Each person carrying on the business or calling of selling or dealing in railroad or steamship

tickets, whether said tickets are sold on the street, in the office of the company he represents or that of any other company, shall pay an annual license graded upon the number of companies he represents, to wit: One company, twenty-five dollars ($25); two companies, forty dollars ($40); three or more companies, fifty dollars ($50).

Peddlers.

SEC. 15. Be it further ordained, etc., Each and every peddler or hawker shall pay an annual license graded as follows: When traveling on foot, five dollars ($5); when traveling on horseback, ten dollars ($10); when traveling in one-horse vehicle, fifteen dollars ($15); when traveling in two-horse vehicle, thirty dollars ($30); when traveling on boat, barge or other water craft, one hundred dollars ($100); provided no hawker or peddler, whose stock does not exceed in value ten dollars ($10) shall be required to pay any license; and provided further, that police officers are hereby empowered and directed to cause all peddlers and hawkers to exhibit their licenses, and if the peddlers or hawkers fail to produce or exhibit the same, the police officers shall retain their stock of merchandise until said peddlers or hawkers produce their licenses.

Sustenance and Refreshment.

SEC. 16. Be it further ordained, That for every business of keeping a hotel, where lodging and eating are combined, the license shall be based on the number of furnished lodging-rooms for guests, as follows, viz:

First class. When said rooms are in number three hundred or more, the license shall be six hundred dollars ($600).

Second class. When said rooms are in number two hundred and twenty-five or more and less than three hundred the license shall be five hundred dollars, ($500).

Third class. When said rooms are in number one hundred and fifty or more, and less than two hundred and twenty-five, the license shall be three hundred and seventy-five dollars ($375.)

Fourth class. When said rooms are in number seventy-five or more, and less than one hundred and fifty, the license shall be three hundred dollars ($300.)

Fifth class. When said rooms are in number forty-five or more, and less than seventy-five, the license shall be two hundred dollars ($200.)

Sixth class. When said rooms are in number thirty or more, and less than forty-five, the license shall be one hundred and fifty dollars ($150).

Seventh class. When said rooms are in number fifteen or more, and less than thirty, the license shall be one hundred dollars ($100).

Eighth class. When said rooms are in number twelve or more, and less than fifteen, the license shall be seventy-five dollars ($75).

Ninth class. When said rooms are in number nine or more, and less than twelve, the license shall be fifty dollars ($50).

Tenth class. When said rooms are in number six or more, and less than nine, the license shall be forty dollars ($40).

Provided that no person who keeps a boarding-house, in connection with schools or colleges for the accommodation of students and employés thereof, shall pay any license as boarding-houses.

Provided further, that no license shall be required when the number of said rooms is less than provided for in class ten; that for every business of lodging alone, the license shall be estimated on the same basis as for hotels, but graduated at one-half rates; provided, that boarding-houses pay sixty per cent. of the rates of hotels.

Bar-rooms.

That for every business of bar-room, cabaret, coffee-house, café, beer saloon, liquor exchange, drinking saloon, grog shop, beer-house, beer garden, or other place where anything to be drunk or eaten on the premises is sold directly or indirectly, the license shall be based on the annual gross receipts of said business, as follows, viz:

That for this business there shall be one extra class.

Class A. When said gross annual receipts are fifty thousand dollars ($50,000) or more, the license shall be fifteen hundred dollars, $1,500.

First class. When said gross annual receipts are thirty-seven thousand dollars, $37,000, or more, and less than fifty thousand dollars, the license shall be one thousand dollars, $1,000.

Second class. When said gross annual receipts are twenty-five thousand dollars, $25,000, or more, and less than thirty-seven thousand five hundred dollars, the license shall be eight hundred dollars, $800.

Third class. When said gross annual receipts are twenty thousand dollars, $20,000, or more, and less than twenty-five thousand dollars, the license shall be six hundred dollars, $600.

Fourth class. When said gross annual receipts are fifteen thousand dollars, $15,000, or more, and less than twenty thousand dollars, the license shall be five hundred dollars, $500.

Fifth class. When said gross annual receipts are ten thousand dollars, $10,000, or more, and less than fifteen thousand dollars, the license shall be four hundred dollars, $400.

Sixth class. When said gross annual receipts are seven thousand five hundred dollars, $7,500, or more, and less than ten thousand dollars, the license shall be three hundred dollars, $300.

Seventh class. When said gross annual receipts are five thousand dollars, $5,000, or more, and less than seven thousand five hundred dollars, $7,500, the license shall be two hundred dollars, $200.

Eighth class. When said gross annual receipts are less than five thousand dollars, $5,009, the license shall be one hundred dollars, $100.

Provided, no license shall be charged for selling refreshments for charitable or religious purposes; provided, that no establishment selling or giving away, or otherwise disposing of any spirits, wines, alcoholic or malt liquors in less quantities than one pint shall pay

less than one hundred dollars, $100; provided further, that when any kind of business provided for in this section shall be combined with any other business provided for in section 13, the same classification shall be made as prescribed in this section; but the price of the licenses shall be equal to the license required for each business separately.

Billiard Tables.

That for the business of keeping billiard tables, pigeon-hole, Jenny Lind, pool or bagatelle tables, and ten-pin alleys, from which revenue is derived, a license of ten dollars ($10) for each such table or alley shall be paid in addition to any other license due by the establishment in which said tables or alleys may be situated.

Confectioners.

All persons, association of persons or business firms and corporations engaged in the sale of soda water, mead, confections, cakes, etc., exclusively, shall be rated as follows:

First class. When gross sales are ten thousand dollars or in excess of that amount, the license shall be fifty dollars, $50.

Second class. When gross sales are eight thousand dollars or more, and less than ten thousand dollars, the license shall be forty dollars, $40.

Third class. When gross sales are six thousand dollars or more, and under eight thousand dollars, the license shall be thirty dollars, $30.

Fourth class. When gross sales are four thousand dollars or more, and under six thousand dollars, the license shall be twenty dollars, $20.

Fifth class. When gross sales are three thousand dollars or more, and under four thousand dollars, the license shall be fifteen dollars, $15.

Sixth class. When gross sales are less than three thousand dollars, and more than two thousand dollars, the license shall be ten dollars, $10.

Seventh class. When gross sales are less than two thousand dollars ($2,000), the license shall be five dollars, $5.

Provided that this provision shall not apply to places doing the business herein named where alcoholic, vinous or malt liquors are sold.

Provided further, that druggists, etc., selling soda water, mead, etc., shall be required to take out a license under this ordinance.

Professional and Personal Occupation.

SEC. 17. Be it further ordained, That the annual license for the kinds of business hereinafter named, shall be graduated in thirteen classes, as follows:

That for every individual or company carrying on the profession or business agency for steamboats, draying, trucking, keeping cabs, carriages, hacks or horses for hire, undertakers, owners or lessees of

toll bridges and ferries, master builders, stevedores and mechanics who employ assistance, the license for said profession or occupation:

First class. When gross annual receipts are twenty thousand dollars or more the license shall be one hundred and twenty dollars, $120.

Second class. When gross annual receipts are sixteen thousand dollars or more, and less than twenty thousand dollars, the license shall be one hundred and five dollars, $105.

Third class. When gross annual receipts are twelve thousand dollars or more, and less than sixteen thousand dollars, the license shall be ninety-five dollars, $95.

Fourth class. When gross annual receipts are ten thousand dollars or more, and less than twelve thousand dollars, the license shall be eighty dollars, $80.

Fifth class. When gross annual receipts are eight thousand dollars or more and less than ten thousand dollars, the license shall be seventy dollars, $70.

Sixth class. When gross annual receipts are six thousand dollars or more, and less than eight thousand dollars, the license shall be sixty dollars, $60.

Seventh class. When gross annual receipts are five thousand dollars or more, and less than six thousand dollars, the license shall be fifty dollars, $50.

Eighth class. When gross annual receipts are four thousand dollars or more, and less than five thousand dollars, the license shall be forty dollars, $40.

Ninth class. When gross annual receipts are three thousand dollars or more, and less than four thousand dollars, the license shall be thirty dollars, $30.

Tenth class. When gross annual receipts are two thousand dollars or more, and less than three thousand dollars, the license shall be twenty-five dollars, $25.

Eleventh class. When gross annual receipts are one thousand dollars, or more, and less than two thousand dollars, the license shall be twenty dollars, $20.

Twelfth class. When gross annual receipts are seven hundred and fifty dollars, or more, and less than one thousand dollars, the license shall be fifteen dollars, $15.

Thirteenth class. When the said gross annual receipts are less than seven hundred and fifty dollars, the license shall be five dollars, ($5). That every individual or individuals carrying on the business or profession of physician, attorney-at-law, editor, dentist, oculist, photographer, by whom any articles are sold or dealt in other than the simple photographs of various kinds taken by himself, agency for publications, freight, tickets, claims, patents, rights, and all other business not herein provided for, shall be graded the same as in above set forth, but the license shall be one-half of those established by this section, and provided no license shall be issued hereunder for less than five dollars, $5.

Traveling Agent.

SEC. 18. Be it further ordained, That all traveling vendors of stoves, lightning rods, and clocks, shall pay a license annually of two hundred dollars, $200.

SEC. 19. Be it further ordained, That when any two or more kinds of business are combined, except as herein expressly provided for, there shall be a separate license required for each kind of business.

SEC. 20. Be it further ordained, That the annual receipts, capital, sales and premium in this act, referred to as a basis of license, are those for the year for which the license is granted; the standard for their estimation shall be *prima facie* of the preceding year if the business has been conducted previously by the same parties, or by parties to whom they claim to be successors. If the firm or company be new the amount of gross sales for the first two months shall be considered the basis, and six times that amount shall be estimated as the annual receipts of such business; provided that any person commencing business after the first of July, shall pay one-half of the above rates.

SEC. 21. Be it further ordained, That the business of the previous year, as also the actual condition and results of business of the current year, for new firms, associations or corporations, for the purpose of calculating licenses, shall be ascertained by the treasurer in the sworn statement of the person or persons in interest, his or their duly authorized agent or officer, made before the treasurer or his deputy, provided, that if the treasurer be not satisfied with the said sworn statement, he shall traverse the same by a rule taken in the proper court, as provided in the constitution, which rule shall be tried summarily, whether an answer be thereto filed or not. On the trial of said rule, the books or written entries and memoranda of said person or persons, firms, companies, corporations or parties, shall be brought into court and subjected to the inspection and examination of the court, the officer who took the rule, and such experts as he may employ or the court may appoint; provided
that this inspection shall not be construed as entitling the
175 defendant to introduce in evidence said books and documents
any more than he would have been without such inspection; provided, also, that the license shall issue in accordance with the said sworn statement, notwithstanding the prospect of pendency of the rule and the final rectification shall be made as ordered by the court.

SEC. 22. Be it further ordained, That if any business shall be conducted without a license, in case- herein provided, the officer whose duty it is to issue licenses, shall, through the city attorney, on motion in the proper courts, as provided in the constitution, and which shall be without deposit or advance cost, take a rule on the party or parties doing such business, to show cause on the fifth day, exclusive of holidays, after the service thereof, which may be

tried out of term times and in chambers, and shall always be tried by preference, why said party or parties should not pay the amount of the license claimed and penalties, or be ordered to cease from further pursuit of said business until after having obtained a license; and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the city, for the amount decreed to be due by the defendant for license and penalty and costs heretofore and hereinafter provided for, and shall be executed in the same manner as other judgments, and every violation of the order of court shall be considered as a contempt thereof, and punished according to law.

It is hereby expressly provided that each person, association of persons, business firm or corporation, required to take out a license under this ordinance, shall be required to post the same in a conspicuous place, in his or their place of business, under a penalty of not more than twenty-five dollars, to be imposed by the recorder of the district in which the offense is committed, and in default of payment of the fine, to imprisonment in the parish prison for a term not to exceed thirty days; and every day that a party shall fail to post said license shall constitute a separate offense and shall be punishable accordingly, and it is hereby made the duty of the police to inspect all places of business and make affidavits against persons violating this ordinance, and it is made the duty of the police to report to the mayor of this city all persons conducting business without licenses.

SEC. 23. Be it further ordained, That the only legal evidence that a license has been paid shall be the appropriate form of license issued by the comptroller, and no receipts issued in place of the license itself shall be valid, and this clause shall be construed to prevent the treasurer from issuing a receipt, in lieu of the appropriate form, to any person, association of persons, or business corporations; provided that nothing herein contained shall be so construed as to exclude oral evidence of lost or destroyed licenses.

SEC. 24. Be it further ordained, That the treasurer shall prepare and keep a book in which he shall record or file the statements made under oath of all persons, association of persons, business firms or corporation-, who may apply for license to pursue any trade, profession, vocation calling or business under this act.

SEC. 25. Be it further ordained, That the treasurer and his assistants are hereby empowered and required to administer oath to any person, president or proper officer, or agent of any association of persons, business firms or corporations, applying for license under this ordinance; and the treasurer or his assistant, or any notary public or other officer empowered to administer oaths, who shall sign any jurat or certify to the correctness of any oath without administering the said oath in person to the applicant, shall be deemed guilty of a misdemeanor, and on conviction be dealt with in accordance with existing laws, relative to the dismissal from office of such several officers, and in addition to which they shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars. That when the oath is taken before the treasurer no

charge shall be made for the same. Any false swearing as to the gross receip-s of any person or persons, or corporations, through their president or proper officer, or agent applying for license, shall constitute the crime of perjury, to be punished as directed by existing criminal law- of the State.

SEC. 26. Be it further ordained, That the treasurer is hereby required to keep a license register, in which he shall enter the names of every person, association of persons, business firms or corporations, with the trade, profession, vocation, calling or business pursued, the class and graduation of the same, the amount of license thereon and the date of the collection or payment thereof.

SEC. 27. Be it further ordained, That the treasurer or assistant violating any of the provisions of this ordinance, or who shall willfully rate any person, association of persons, or business firms and corporations, at a less graduation than the law contemplates, or who shall issue to any said persons, association of persons or business firms and corporations, a license for a less sum than that corresponding with their graduation, shall be deemed guilty of a misdemeanor in office, and shall on conviction before competent authority, be summarily dismissed therefrom.

SEC. 28. Be it further ordained, That all unpaid licenses shall bear interest at the rate of two per cent. per month from the first day of March, and the payment thereof shall be secured by first privilege in favor of the city, and the treasurer shall collect said license and interest in the manner provided by existing laws.

SEC. 29. Be it further ordained, That all gross receipts, derived from any mercantile business or occupation whatsoever, as hereinbefore provided, whether earned within or without the city, shall form the proper basis upon which all licenses shall be collected by the treasurer.

SEC. 30. Be it further ordained, That a person, firm or company having more than one place of business shall pay a separate license for each place of business.

SEC. 31. Be it further ordained, That all ordinances or parts of ordinances in conflict with this ordinance be and are hereby repealed, except ordinance 228, A. S., which is hereby continued in full force and effect.

Adopted by the council of the city of New Orleans, Dec. 8, 1891.

ED. T. MANNING,
Clerk of Council.

Approved Dec. 9, 1891.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.

WRIGHT SCHAUMBURG,
Secretary to the Mayor.

176 *Ordinances Levying a Rate of Taxation of* 2.02 *% on Assessed Value of Real and Personal Property for Years* 1889, 1890, 1891, *&* 1892, *Liable to Taxation.*

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 1, 1888.

No. 3371, council series.

Be it ordained, That in accordance with section 63, of the city charter, the tax levy for the year 1889, on all real and personal property subject to taxation within the limits of the city of New Orleans be and is hereby fixed at 2.02 per cent. on the assessed valuation of same.

Adopted by the council of the city of New Orleans, Nov. 27, 1888.

ED. T. MANNING,
Clerk of Council.

Approved Dec. 1, 1888.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *March* 6, 1890.

No. 4333, council series.

Be it ordained, That in accordance with section 63 of the city charter the tax levy for the year 1890 on all real and personal property, subject to taxation within the limits of the city of New Orleans, be and is hereby fixed at 2.02 per cent. on the assessed valuation of same.

Adopted by the council of the city of New Orleans, March 5, 1890.

ED. T. MANNING,
Clerk of Council.

Approved March 6, 1890.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 27, 1890.

No. 4981, council series.

Be it ordained, That the tax levy on real and personal property for the year 1891 be and is hereby fixed at 2.02 per cent.

Adopted by the council of the city of New Orleans December 23, 1890.

ED. T. MANNING,
Clerk of Council.

Approved Dec. 26, 1890.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

MAYORALTY OF NEW ORLEANS,
CITY HALL, *Dec.* 14, 1891.

No. 5846, council series.

Be it ordained, That the rate of taxation for the year 1892, be and is hereby fixed at 2.02 per cent. on the assessed value of the real and personal property liable to taxation within the city limits.

Adopted by the council of the city of New Orleans, December 8th, 1891.

E. T. MANNING,
Clerk of Council.

Approved Dec. 14, 1891.

JOS. A. SHAKSPEARE, *Mayor.*

A true copy.
WRIGHT SCHAUMBURG,
Secretary to the Mayor.

(Here follow tables marked pp. 177 to 216, inclusive.)

217 *Petitions, Answers, and Judgments of the Third District Court, No. 25390 of the Docket.*

STATE OF LOUISIANA:

Third District Court, Parish of Orleans.

Hon. F. A. Monroe, judge.

CITIZENS' BANK OF LOUISIANA
vs.
P. L. BOUNY, Tax-collector, *et als.* } No. 25390.

Petition for Injunction.

Filed 25th June, 1878.

To the honorable the judge of the third district court for the parish of Orleans:

The petition of the Citizens' Bank of Louisiana, a corporation created by law and located in the city of New Orleans, respectfully represents that the board of assessors have assessed against your petitioners taxes claimed to be due for 1877, payable in 1878, upon a taxable basis of one hundred and fifty-nine thousand eight hundred and twenty-eight $\frac{62}{100}$ dollars, $159,828.62, for taxable excess over and above the capital of the bank, not including real estate, and the further sum of six hundred and thirty-six thousand four hundred and fifty dollars, $636,450.00, for cash value of capital stock, as appears from the notice of P. L. Bouny, tax-collector, hereto annexed for reference.

That the tax-collector has already notified your petitioner to pay the sum of ($10,351.62) ten thousand three hundred and fifty-one $\frac{62}{100}$ dollars for taxes assessed, as above stated, as appears from said notice above mentioned, and that your petitioners are ex-
218 posed to seizure under section 7 of act No. 8 of extra session of 1878.

That said assessments are contrary to law (the capital stock of the Citizens' Bank of Louisiana and the excess over and above the original capital stock being exempt by law from all taxes under the statutes of the State of Louisiana by act of 1st April, 1833, section 29, and of 30th January, 1836, section 4th), and there is no warrant or authority in the officers of the State of Louisiana to demand and enforce payment of said tax based upon said assessments.

That your petitioners, being threatened of a seizure, as above stated, are entitled to a writ of injunction, art. 296 of the Code of Practice, prohibiting the tax-collector from proceeding under the 5th section of the act of 1878, No. 8, above mentioned, as such proceedings on the part of the tax-collector would be most injurious to your petitioners and would impair their vested rights of exemption from taxation upon the very same property mentioned in the tax-collector's notice.

Petitioners therefore pray that it may please this honorable court to grant a writ of injunction prohibiting P. L. Bouny, tax-collector, from seizing and selling any property of your petitioners for the payment of the tax herein claimed.

That this petition be served on the said P. L. Bouny, tax-collector; on Allen Jumel, auditor of the State of Louisiana, and on the board of assessors in the city of New Orleans; that all said parties be cited to show cause why the prayer of your petitioners should not be granted, and that after due proceedings had the assessment complained of by your petitioners, as described in the collector's notice, be declared null and void; that the injunction herein prayed
219 for be maintained and the tax-collector forever prohibited from demanding and collecting payment for the taxes claimed as above prayed for.

(Signed) A. PITOT & SON, *Attorneys.*

Answer of Board of Assessors.

Filed 29th June, 1878.

Third District Court, Parish of Orleans.

CITIZENS' BANK OF LOUISIANA *vs.* P. L. BOUNY, Tax-collector, etc. } No. 25390.

And now comes the Board of Assessors, made defendants herein, and for answer say:

1st. That they deny all and singular the allegations in plaintiff's petition contained except as may hereinafter be admitted.

2nd. That they admit that said Citizens' bank has been assessed as follows for the taxes due the State of Louisiana and city of New Orleans and payable in the year 1878, to wit, on cash value of capital or taxable assets over and above the capital stock, exclusive of real estate, $159,828.62, and that there has been assessed against the stockholders of said bank the cash value of the stock held by them, exclusive of real estate now taxable, assets on capital, and said surplus of $159,828.62, which valuation and assessments amounts to the sum of $636,450.00, and for the payment of the taxes levied thereon said bank is liable and required to pay, all according to acts No. 8 and No. 9 of the Acts of the Extra Session of the General Assembly of the State of 1878.

3d. That, in so far as plaintiff claims and sets up the right of exemption from taxation and assessment by virtue of acts of 1833 and 1836, respondents aver said acts to be in violation of and contrary to the constitution of the State of Louisiana in force and operation during said years, to the inherent principles of republican
220 government, and to the rule of requiring uniformity and equality in taxation, which said rule has ever been a part of the constitution of the State of Louisiana and has been distinctly enunciated in article 127 of the constitution of 1845, article 123 of that of 1852, article 124 of that of 1864, and art. 118 of that of 1868; that said bank is liable to taxation and assessment on its property

equally with all others enjoying the benefits of the constitution of and government of this State, and the exemption claimed is in violation of the organic rules controlling and which have ever controlled the legislature of this State.

4th. That is said acts, in so far as an exemption is claimed by virtue of their provisions, ever were operative and valid, such exemption does not and never did form a contract and become a vested right of said bank, but at most as a mere suspension of the sovereign right of taxation, a privilege extended and which was properly revoked and resumed by the State by the articles of the constitution of 1845, 1852, 1864, and 1868 above mentioned and by the existing laws requiring the taxation of all property and uniform and equal assessment.

5th. That the assessment of $636,450.00 as aforesaid on stock in the hands of stockholders, the tax upon which is required to be paid by said bank for account of said stockholders, the said assessment and the taxation thereon levied is not in violation of the right of exemption claimed by plaintiff.

Wherefore respondents pray that the injunction granted be dissolved, and that the plaintiff's demand and action be refused and dismissed; that there be judgment refusing the exemption and maintaining and enforcing said assessment and taxation thereunder.

Further, they pray for costs and for general relief.

(Signed) SAMUEL P. BLANC,
Attorney for Board of Assessors.

221 *Answer of P. L. Bouny, State Tax-collector, etc.*

Filed Dec. 19th, 1878.

3rd Dist. Court, Parish of Orleans.

CITIZENS' BANK OF LOUISIANA
vs.
P. L. BOUNY, Tax-collector, etc. } No. 25390.

Now comes P. L. Bouny, State tax-collector of second district, parish of Orleans, and Allen Jumel, State auditor, and for answer — plaintiff's petition deny all and singular the allegations in plaintiff's petition contained.

Respondents specially aver that the assessment complained of by petitioner is valid and legal and is directly authorized by act No. 8 of the extra session of the legislature of 1878.

Your respondent- further show that under act 96 of the session of the legislature of 1877, sec. 55, they are entitled to have the injunction herein taken out dissolved, with judgment against plaintiff and the securities on the injunction bond to the amount of ten per centum on the sum *of* the collection of which is herein enjoined and ten per centum for special damages for attorneys' fees and costs of suit.

Wherefore respondents pray that the injunction herein granted may be dissolved; that it may be decreed that the assessment against the shares of the plaintiffs is legal and valid and the tax

demanded thereupon is due by said bank; and respondents further pray that there be judgment against plaintiff, The Citizens' Bank of Louisiana, and the securities for ten per centum on the amount of taxes the collection of which is enjoined and ten per centum for special damages for attorneys' fees and, respondents pray, for costs.

And respondents, by way of reconvention, aver that the said P. L. Bouny, State tax-collector, is entitled to demand and receive
222 of the said Citizens' bank the sum of ten thousand three hundred and fifty-one dollars and 62 cents, and that the said bank is required by law to pay over to said P. L. Bouny, State tax-collector, the said amount.

Wherefore respondent, P. L. Bouny, prays that there may be judgment condemning the Citizens' bank to pay over to him the said sum as due on the assessment of shares made according to law, with interest from date of demand.

(Signed) J. C. EAGAN,
Assistant Att'y General.

Judgment.

3rd Dist. Court, Parish of Orleans.

CITIZENS' BANK OF LOUISIANA *vs.* P. L. BOUNY, Tax-collector. } No. 25390.

For the reasons assigned in the written opinion of the court this day delivered and filed—

It is ordered, adjudged, and decreed that the assessment complained of be, and the same *are*, declared null and void, and that the injunction herein issued be made perpetual.

It is further ordered that the demand in reconvention set up by P. L. Bouny, tax-collector, be dismissed, and that defendants pay costs.

Judgment rendered January 14th, 1879, and signed January 18th, 1879.

(Signed) F. A. MONROE, *Judge.*

UNITED STATES OF AMERICA, *State of Louisiana.*

Supreme Court of the State of Louisiana.

223 I hereby certify the foregoing to contain true extracts from the record of the proceedings had in the 3rd district court for the parish of Orleans in a certain suit wherein Citizens' Bank of Louisiana was plaintiff and P. L. Bouny, tax-collector, *et als.* were defendants, which record is on the files of this court under No. 7368.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New-Orleans, this the
[SEAL.] 19th day of July, anno Domini 1893, and in the 118th year of the Independence of the United States of America.

(Signed) C. W. BUCHANAN,
Deputy Clerk.

Judgment of Supreme Court in Case Citizens' Bank of Louisiana v. P. L. Bouny, Tax-collector, No. 7368.

UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

NEW ORLEANS, MONDAY, *May 19th*, 1879.

The court was duly opened pursuant to adjournment.

Present: Their honors Thomas C. Manning, chief justice; Robert H. Marr, Alcibiade De Blanc, William B. Spencer, Edward D. White, associate justices.

His honor Mr. Justice Marr pronounced the opinion and judgment of the court in the following case:

CITIZENS' BANK OF LOUISIANA
vs.
BOUNY, Tax-collector. } No. 7368.

Appeal from the third district court for the parish of Orleans.

224 Under the revenue act of 1878, extra session, No. 8, taxes were assessed on the "taxable assets of the Citizens' bank over and above the capital stock, not including real estate," valued at $159,828.62, and on the "cash value of capital stock," $636,450. The collector notified the bank to pay these taxes, amounting to $10,351.62, and the bank enjoined on the ground that by the original charter of 1833 and the amended charter of 1836 its capital is exempt from all taxes.

The answer is that the exemption claimed is in violation of the law of equality and uniformity which existed under the constitution of 1812 and which has been enunciated in all the subsequent constitutions; that the acts of 1833 and 1836 did not form a contract and did not become a vested right in the bank; that they were at most merely a suspension of the sovereign right of taxation, which was properly resecured by the constitutions of 1845, 1852, 1868, which require all property to be taxed and assessments to be uniform, and that the assessment of the $636,450 on stock in the hands of the stockholders is not in violation of right of exemption claimed by the bank.

The judgment appealed from declared the assessment null and void and perpetuated the injunction.

By the original charter, act of 1833, section 29, it was provided that "all the profits of the bank shall be added to and made part of its capital," except such dividends as it was authorized to make after the redemption of each series of its bonds, payable at five distinct periods. At each of these periods one-fifth of the profits, if any, were to be divided among the stockholders.

By section 30 of the same act, in consideration of the cession of valuable rights to the State or the payment of $500,000 in lieu

thereof, "the said corporation shall during its existence be
225 exempt in its capital and property which it may acquire by virtue of the provisions of this act from all taxes to the State or to any parish or corporation created by the State."

By the amendatory and supplementary act of 1836 the bank was relieved of some of the obligations imposed upon it by the act of 1833, and the consideration upon which the exemption had been granted ceased and failed. By section 4 of this amendatory act, page 17, a portion of the profits was to be paid to the State, "and the capital of said bank shall be exempt from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter."

Under the constitution of 1812 the legislature had the power to select the objects of taxation and the consequent right to exempt from taxation. The exemption granted by the act of 1833 need not be considered, because it was modified and superseded by that granted by section four of the act of 1836, which was accepted by the bank, and it is upon this exemption that the right of the bank depends.

By its terms this exemption is limited to the capital of the bank, and it covers the profits or that part of the profits which section 29 of the act of 1833 requires to be added to and made part of the capital. No proof in the record shows that any part of the $159,828.62 is subject to taxation, and no part of that sum can be taxed separately if it represents capitalized earnings. If it is the property of the bank, and it is assessed as such, it must be profits and therefore capital.

There is a wide difference between the mere gratuitous exemption of a corporation from taxation and an exemption granted, as in this case, upon a valuable consideration. In the first case it is a mere suspension of the sovereign right to tax all property, which the State may resume at pleasure and which it does resume
226 whenever it sees fit to impose by law a tax on the property, but where the exemption is granted upon a valuable consideration fixed and accepted by the State such exemption is a contract between the State and the corporation if within the constitutional power of the legislature. It becomes a vested right, which the Constitution of the United States forbids the State to violate or impair, and the organiz law of Louisiana, from the formation of the State government to the present time, has respected and consecrated the inviolability of contracts, which is founded in common honesty and the obligations of good faith. Constitution 1812, article V, section 20; 1845, article 109; 1852, article 105; 1868, article 110.

All the revenue acts under the constitution of 1868 prior to the act of 1878 subjected to taxation "the capital stock of all banks or corporations doing business in this State not expressly exempted from taxation by their charters granted by this State." Acts of 1868, page 248; 1869, page 147; 1870, extra session, page 126; 1871, page 104; 1872, page 55. None of them specifically taxed the stockholders on their shares of the bank stock, but all of them

taxed "capital invested or employed each year in any trade or commerce."

The judge of the district court attached importance to the fact that no tax was ever imposed on the capital of the bank, and that this was the first attempt to tax the shares of stock, as such, during the existence of the bank. We think the right of the State to tax, within the restrictions of the organic law, is inherent, and where no contract has been made binding the State not to tax the power to tax may be exercised at any time with respect to objects and property which had never before been subjected to taxation.
227 The mere failure of the State to exercise any constitutional right cannot be held to be a surrender of that right.

The act of 1878, section 1, after fixing the rate of taxation, ad valorem, proceeds in distinct paragraphs to enumerate the objects of taxation. The sixth paragraph specifies "all capital * * * except the capital stock of banks and banking associations, whose shares are taxed in the hands of the shareholders." The seventh paragraph designates "the property of whatever kind, of all corporations, over and above their capital stock;" and the eighth paragraph subjects the shares of stockholders in all banks and banking associations. A subsequent clause of this paragraph requires the officers of these institutions to pay to the tax-collectors the taxes on the shares on account of the stockholders at the dates when the respective taxes, State, parish, or municipal, fall due.

We do not find in this act any indication of the intention of the legislature to tax the capital of the banks, and it was clearly not in the power of the State to tax the capital of this bank. It is not necessary to express any opinion now as to the power of the State to require this bank to pay the taxes due by the stockholders without regard to the state of account between them and the bank. Numerous decisions, of the highest authority, maintain that the exemption of the capital of a bank does not impair the right of the State to tax the shares in the hands of the stockholders; and, without so deciding absolutely, we shall assume, for the purpose of this case, that the charter exemption of the capital of the bank does not extend to the shares in the hands of the stockholders. See McCullough *v.* Maryland, 4 Wheaton; 4 Conn. Rep., 490, 491; Union Bank *v* State, 9 Yerger, 490; Van Allen *v.* Assessors, 3 Wallace, 583, 584; People *v.* Commissioners, 4 Wallace, 258; Bradley *v.* People, 4 Wallace, 462; Bank *v.* Commonwealth, 9 Wallace, 359; Lion-
228 berger *v.* Rouse, 9 Wallace, 473; Farrington *v.* Tennessee, 5 Otto, 687.

Comparing the first clause of the eighth paragraph of the act of 1878 with the sixth paragraph, page 229, it will be seen that it was as clearly the intention of the legislature not to tax the banks on their capital as it was to tax the stockholders on their shares. The scope and meaning of the second clause of the eighth paragraph are not so obvious. "Said shares shall be assessed at ther value, after deducting from the capital stock of said banks and banking associations, all property otherwise assessed or exempt from taxation." None of the property of this bank is exempt except the capital, and

the property of the bank, in excess of its capital, not including real estate, is assessed at a valuation of $159,828.62. If the legislature intended that the capital of the bank, which is exempt, and the assessed value of its property, real and personal, "otherwise assessed," should be deducted from the capital stock, what would remain as the basis of the valuation of the shares? The shares are not to be assessed at their market value, but at their value after the required deduction. The constitution, article 118, prescribes that "all property shall be taxed in proportion to its value to be ascertained as directed by law;" and this act, the first law subjecting the shares of bank stock specifically, has directed the manner of ascertaining the value to be taxed.

The literal interpretation of this clause would leave nothing to be taxed but the excess of the value of the shares above par, and above the value of the real and personal property of the bank, not capital, "otherwise assessed," the practical effect of which would be to exempt the shares from taxation. If the words "all property" do not include the capital, but mean real and personal property, something tangible, not part of the capital, the remainder, after
229 deducting the aggregated value of such property, would be the basis of the valuation of the shares. The several shares would be taken and estimated as so many parts of this remainder, not as subdivisions of the capital stock, and their value would be ascertained and the tax levied with respect to this remainder, not with reference to the entire capital stock.

If the word "property" does not include the capital, then the words "or exempt from taxation" must be construed as having no meaning with respect to this bank, since no property of the bank is exempt except its capital; but this would not solve the difficulty. Whether the capital is or is not included and to be deducted, all the other property of the bank "otherwise assessed" must be deducted. It is easy to ascertain the cash value in the market of shares representing fixed portions of the capital stock of a bank; but this would not indicate the value of the shares after the deduction provided for. The actual value of the shares would neither be increased nor diminished by this deduction, made in calculation only, for the purpose of taxation; but as the legislature has chosen to prescribe this arbitrary mode of ascertaining the value to be taxed the assessors had no power to fix the value otherwise.

The third clause of this paragraph is: "And said shares shall be included at such ascertained value in the valuation of the personal property of such stockholders in the assessment of taxes," etc. The meaning is clear. The value to be assessed and taxed must be ascertained in the manner prescribed in the preceding clause and not otherwise.

The assessors give the names of the stockholders in the assessment-roll, the number of shares owned by each, and the value, $42.43, a share. These several values, carried into the column headed
230 "cash value of the capital stock of all banks or other corporations doing business in this State not expressly exempted from taxation by their charters granted by this State," are aggre-

gated without any deduction whatever; and upon this aggregated value and the $159,828.62 the tax of 13 mills is levied.

It has been suggested that if the eighth paragraph is to be so construed as to exempt the shares of stock from taxation it is in violation of the Constitution, article 118, and that the shares may be taxed as capital. However this may be, the assessment is not on capital invested or employed, and it is not necessary for us to say what might be the effect of an assessment which has not been made.

Manifestly the assessors have estimated the cash value of the entire capital stock of the bank, and, as the assessment-roll shows, they have not attempted to ascertain the value of the shares in the manner prescribed in the second clause, and they have not included that value in the assessment, as required in the third clause. The assessment has not been made in accordance with the law, and it is a nullity.

The judgment appealed from is therefore affirmed with costs.

UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

NEW ORLEANS, MONDAY, *February 9th*, 1880.

The court was duly opened pursuant to adjournment.

Present: Their honors Thomas C. Manning, chief justice; Robert H. Marr, Alcibiade Du Blanc, William B. Spencer, Edward D. White, associate justices.

His honor Mr. Justice Spencer pronounced the opinion and judgment of the court in the following case:

231 CITIZENS' BANK OF LOUISIANA *vs.* P. L. BOUNY, Tax-collector. No. 7368.

On rehearing.

It will be seen by our former opinion in this case that there is demanded of the bank taxes—

1st. On $159,828.62 as "taxable assets over and above the capital stock," and,

2nd. On $636,450 assessed to the shareholders of said bank as "value of capital stock," etc.

The taxes so assessed to the stockholders are demanded of the bank under the revenue act of 1878, which requires the banks to pay such assessments.

The bank resists both demands on the ground that *it* by its charter it is exempt therefrom.

1. We see no reason to doubt the conclusion that by section 4 of the act of January 30th, 1836, the capital of the Citizens' bank is exempt from taxation. "The capital of said bank shall be exempt, etc., * * * during the continuance of its charter" is the language used. That language is broad enough to cover everything

which during its existence should enter into and make part of the capital of said bank.

By the 29th section of the original charter "all the profits made by said corporation shall be added to and made a part of its capital," except a certain fraction of any excess of profits over what was necessary to pay the bonds issued by the bank. It is not pretended that any such excess of profits exists or ever has. As a matter of fact the bank has never declared a dividend to its shareholders. This sum of $159,828.62 is accumulated profits,
232 which, by the charter, enter into and become part of the bank's capital, and is therefore exempt.

2. The shareholders of the bank *has* been assessed for the value of their shares of stock and the tax thereon is demanded of the bank. Under the view we have taken of this case it will be unnecessary to discuss the question, so much argued by counsel, as to the right of the State to tax the shares of the shareholders. The bank has no mission to raise such a question, except so far as it may be necessary to protect itself. Even if the shareholders be liable to taxation on their shares (upon which we express no opinion), under the peculiar and exceptional nature of the charter of the Citizens' bank we think it cannot be forced to pay the taxes assessed to its shareholders.

To enable this bank to obtain its capital the State loaned it bonds to the amount of several millions, which bonds were put upon the market and sold by the bank, the bank binding itself to take them up at their maturities and pay the interest thereon as it accrued.

In order to secure the State against loss and guarantee the payment of the bonds the mortgages and pledges given by the stockholders to secure their subscriptions and loans were transferred to the State and the bondholders. All profits were to be capitalized except as above mentioned. No dividends were to be distributed except out of a small fraction of any surplus of profits after meeting and paying the maturing bonds and interest.

It is, we think, manifest that the bondholders are to be paid out of the profits of this bank by preference and before any dividend can be declared or distributed to shareholders.

It is not shown or pretended that the bank has in its possession any funds which it could legally distribute to its shareholders or which it could pay to them without a manifest violation of
233 its charter. If voluntary payments to or for account of its shareholders would violate its charter and be a breach of its contract with the State and its bondholders, forced payments would be equally so. The authorities cited by the defendants are inapplicable to the present case. Where the capital, assets, and profits of a bank are at the disposal of its shareholders the State may perhaps compel the bank to pay their taxes on stock. But such legislation with reference to the Citizens' bank would be violative of the vested rights of others and, as we think, unconstitutional.

It is therefore ordered that our former decree remain undisturbed.

The judgment having become final, the foregoing is a true copy

of the original opinion and judgment rendered in the case of Citizens' Bank of Louisiana *v.* P. L. Bouny, tax-collector, No. 7368.

Clerk's office, New Orleans, August 1st, 1893.

[SEAL.] (Signed) C. W. BUCHANAN,
Deputy Clerk.

Judgment of the Civil District Court, Div. "B," in the Case of The Citizens' Bank v. Board of Assessors & als., No. 12429.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

I hereby certify that on the 5th day of November, 1886, judgment was rendered in this court in the following-entitled suit in the words and figures following, to wit:

THE CITIZENS' BANK
vs.
BOARD OF ASSESSORS & *als.* } No. 12429. Div. "B."

234 For the reasons dictated to the stenographer, the court considering the law and the evidence to be in favor of plaintiff and against the defendants—

It is ordered, adjudged, and decreed that there be judgment in favor of the plaintiff, The Citizens' Bank, and against the defendants, The Board of Assessors for this Parish, The City of New Orleans, and The State Tax-collector above Canal Street, ordering said Board of Assessors in and for the Parish of Orleans, The City of New Orleans, and The State Tax-collector of the City of New Orleans above Canal Street to be directed and commanded to erase as illegal, null, and void the assessments described in plaintiff's petition and recited below, and that they be prohibited from collecting any taxes on plaintiff's corporation based on said assessments. It is further ordered, adjudged, and decreed that the said board of assessors in and for the Parish of Orleans, The City of New Orleans, and The State Tax-collector of the City of New Orleans above Canal Street be prohibited from recording any taxes against said assessments, the costs of this action to be borne by the above-name- defendants.

State and city taxes for the year 1884 upon furniture employed in the banking-house of the petitioner, one thousand dollars	$1,000
Furniture employed in the banking-house, five thousand three hundred and sixty-five dollars	5,365
One banking-house in square between Gravier, Commercial place, St. Charles, & Camp Sts., seventy-five thousand dollars	75,000
And upon the shares of stock of the capital of petitioner, the shares being assessed at ninety-two thousand and four hundred dollars	92,400

Judgment signed November 10th, 1886.

(Signed) W. T. HOUSTON, *Judge.*

235 In testimony whereof I have hereunto set my hand and affixed the seal of the said court, at the city of New Orleans, on this first day of March, in the year of our Lord one thousand eight hundred and — seven.

(Signed) M. A. McDONNELL,
[SEAL.] *Deputy Clerk.*

Petition, answer, & judgment in the case The City of New Orleans *vs.* The Citizens' Bank of Louisiana, No. 3629, civil district court, parish of Orleans, division "A."

Petition.

Filed July 26th, 1882. (Stamp.)

STATE OF LOUISIANA,
Parish of Orleans.

Division A.

THE CITY OF NEW ORLEANS
vs.
THE CITIZENS' BANK OF LOUISIANA.

To the honorable the judges of the civil district court for the parish of Orleans:

The petition of the City of New Orleans, a municipal corporation created by law of the State of Louisiana, respectfully showeth—

That the Citizens' Bank, for account of its stockholders residing in the city of New Orleans, is indebted unto petitioner in the sum of eighteen hundred and eighty $\frac{25}{100}$ dollars, with ten per centum per annum interest from March 31st, 1880, for city taxes of 1880 levied pursuant to law and on an assessment duly made of said in name of said defendant on the assessment-roll of 1879, all of

236 which will more fully appear from the tax bill No. 6822 and assessment of 1879 drawn against defendant as follows:

	Assessment.	For what purpose.		
Real estate	Morris Ranger	judg't		0.87
Personal property. Stocks in vessels and corporations	Chs. Parsons	"		1.37
	W. S. Peterkin	"		0.20
Money at interest	Jas. Wadick	"		0.14
Mdse. or stock in trade	Chs. Lauer	"		0.09
Furniture, etc.	Bertha Strauss	"		0.11
Income	Myra C. Gaines	"		0.43
Rate of tax				3.21

Total taxable property, $585,750—$1,880.25.
Square —, streets —, as per exhibit.
Assessment, $585,750.00; rate, 3.21 per cent.
Amount, $1,880.25.

That petitioner has a lien, privilege, and right of pledge on the property described in said tax bill for the payment of said tax, interest, and costs due, registry of which has been made.

Wherefore petitioner prays that the Citizens' Bank, for account of its stockholders, be duly cited to answer this petition and after due course of law that defendant be condemned to pay petitioner the sum of eighteen hundred and eighty $\frac{35}{100}$ dollars, with ten per centum per annum interest from March 31st, 1880, till paid, with lien, privilege, and right of pledge on the property described herein. Further, petitioner prays for all costs and for general relief.

(Signed) J. WARD GURLEY, JR.,
Ass't City Att'y.

Answer of Defendant.

Filed November 7th, 1882.

237 Civil District Court.

THE CITY OF NEW ORLEANS
vs.
THE CITIZENS' BANK OF LA. } No. 3629.

And now comes into court The Citizens' Bank of Louisiana, defendant herein, and for answer to plaintiff's petition denies all and singular the allegations thereof. This defendant shows that there is no warrant in law for the taxes claimed in this suit, for and because this corporation is exempted by law from any tax whatever upon its capital stock, shares of stock, and property of every description, said exemption being contained in the 30th section of its charter as follows, to wit: "The said corporation shall during its existence be exempt in its capital and property which it may acquire by virtue of any of the provisions of this act from all taxes to the State or to any parish or corporation created by law of this State," said charter being the act of the legislature approved April 1st, 1883, which exemption is repeated in the 4th section of the amendatory charter of this corporation of 1836 entitled "An act amendatory and supplementary to the several acts relative to the act to incorporate the Citizens' Bank of Louisiana," which said acts are specially referred — for full explanation and greater certainty, one being the act to incorporate the Citizens' bank approved 1st Ap'l, 1833, and the other amendatory act was approved January 30th, 1836.

That said exemption is a vested right in this defendant, and no legislation is competent to impair and take away said exemption; that the acts of the legislature referred to in the petition and tax bill filed in so far as they seek or are construed to deprive this defendant of said exemption are null and void because violative of said charters and of the 10th section of article 1 of the Constitution of the United States, as well as of the similar provision in
238 the State constitution, and this defendant shows that by reason of said provisions in its charter and the exemption therein contained the assessment and levy of the taxes claimed in this suit were and are illegal; that said taxes have no validity whatever and cannot be recovered.

Wherefore defendants prays for judgment in its favor and dismissing plaintiff's petition with costs, and for all general equitable relief.

(Signed) ARMAND PITOT,
(Do.) MILLER, FINNEY & MILLER,
Att'ys for Def't.

Judgment.

Civil District Court for the P'h of Orleans, Div'n A.

CITY OF NEW ORLEANS
vs.
CITIZENS' BANK OF LA. } No. 3629.

This case came up for trial this day—present, L. O'Donnell, Esq., counsel for pl'ff, and Messrs. A. Pitot and H'y C. Miller for defendant—when, after hearing evidence and counsel, for the reasons orally assigned by the court—

It is ordered that there be judgment in favor of defendant dismissing plaintiff's suit with costs.

Judgment rendered January 10, 1883.

Judgment signed January 15, 1883.

(Signed) A. L. TISSOT, *Judge.*

Certificate.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

I, W. J. McGeehan, clerk of the civil district court for the
239 parish of Orleans, do hereby certify that the foregoing five pages do contain a true, correct, and complete transcript of all the proceedings had, documents filed, testimony and evidence adduced upon the trial of the cause wherein The City of New Orleans is plaintiff and The Citizens' Bank of Louisiana is defendant, instituted in this court and now in the records thereof under the No. 3629 of the docket hereof.

In testimony whereof I have hereunto set my hand and affixed the impress of the seal of said court, at the city of New Orleans, on this twenty-first day of March, in the year of our Lord one thousand eight hundred and eighty-seven, and in the one hundred and 11*l*th year of the Independence of the United States of America.

[SEAL.] (Signed) W. J. McGEEHAN, *Clerk.*

Petition for injunction, order granting injunction, and answer in the case The Citizens' Bank of Louisiana *vs.* Charles Cavanac, State tax-collector, No. 20669, civil district court, parish of Orleans, div. —.

(Stamps.) *Petition.*

Filed April 1st, '87.

Civil District Court.

THE CITIZENS' BANK OF LA.
vs.
CHARLES CAVANAC, State Tax-collector. } No. 20669. Div. —.

To the honorable the civil district court in and for the parish of Orleans:

The petition of the Citizens' Bank of Louisiana, a corporation established by law, domiciled in the city of New Orleans,
240 respectfully shows that petitioner is exempted by law from all taxation, State or municipal, upon its capital, shares, and property of every description, as appears by the act of the legislature of Louisiana approved April 1st, 1833, entitled "An act to incorporate the Citizens' Bank of Louisiana, and especially the 30th section of said act, and by the act amendatory of the preceding act approved January 30th, 1836, and especially by the 4th section thereof, which acts are specially referred to for fuller explanation and greater certainty.

Petitioner shows that under said charter as amended and in accordance with the conditions thereof the Citizens' bank was organized in 1836 with a capital of upwards of ten millions of dollars then obtained from the subscribers to the capital stock in accordance with the charter of the bank; that in 1853 additional capital for the Citizens' bank of one million dollars was obtained from the subscribers thereto under the authority of the act of the legislature of Louisiana for the relief of the Citizens' bank, being the act No. 141 of 1852, approved March —, 1852, and the act of the legislature of Louisiana No. 246 of 1853, approved April 28th, 1853; that the aforesaid original capital obtained in 1835, as well as the said increased and additional capital obtained in 1853, was all furnished and paid to the bank on the faith of its charter and the aforesaid legislation and on the faith of the aforesaid exemption of all property, stock, and capital of the Citizens' bank granted in the aforesaid acts, and that relying on the aforesaid exemptions the said bank has conducted and is now conducting its banking business.

Petitioner further shows that said acts containing the charter of the said bank, and especially the provisions thereof containing said exemptions from taxation, are contracts within the protection
241 of the articles of the Federal and State Constitutions protecting contracts, said articles being article 1, section 10, of the Constitution of the United States and similar articles in the State constitution, and petitioner further shows that said exemptions have been decreed valid by the courts.

Petitioner further shows that, notwithstanding said exemptions from said taxation and said judgment decreeing the same to be valid, Charles Cavenac, the collector of State taxes for the Lower or Second district for the parish of Orleans below Canal street, has advertised for sale and avows his purpose to sell on Monday, April 4th, 1887, the property in the square bounded by Custom-house, Royal, Canal streets, and Exchange alley, as set forth in the advertisement herewith filed, and said tax-collector proposes to sell said property for alleged taxes claimed to be due by the Citizens' bank for the years 1874, 1875, and 1876; that in all of said years and for years after the said property owned by your petitioner was the banking building in which petitioner conducted its banking business and constituted part of the capital of petitioner — was exempted from any taxation by virtue of said exemptions, and the alleged assessments and said alleged taxes based upon them are void and null and afford no warrant to the said tax-collector to proceed to the sale of said property; that said assessments are illegal demands against petitioner and against said property from which petitioner is entitled to be relieved; that said proposed sale for said illegal taxes is in violation of law and of plaintiff's rights and would cause plaintiff irreparable injury if permitted to proceed, and plaintiff is entitled to a writ of injunction to prevent said sale.

Petitioner shows that the property thus proposed to be illegally sold by said tax-collector is the certain lot of ground
242 in the Second district of this city, in the square bounded by Custom-house, Royal, and Canal streets and Exchange alley, designated as lot number 12, in square number 34, and measures fifty-eight feet front on Royal street by a depth of eighty-nine feet, forming the corner of Custom-house and Royal streets, as is set forth in the annexed advertisement of said sale, made part hereof.

Wherefore petitioner prays that said Charles Cavanac, State tax-collector for the Second or Lower district for the territory of the parish of Orleans below Canal street, be duly cited to answer this petition; that in consideration of the bond and affidavit herewith filed a writ of injunction issue directed to said Charles Cavanac, State tax-collector for the Lower district aforesaid, enjoining and prohibiting him from selling the aforesaid property for said alleged taxes as set forth in the annexed advertisement, and that he be prohibited and enjoined from any attempt to enforce said assessments and said taxes based thereon; that after due proceedings there be judgment in petitioner's favor making said injunction perpetual, and for general relief.

(Signed) HENRY C. MILLER,
Att'y for Pet.

Stanly O. Thomas, being duly sworn, declares on oath that he is president of the Citizens' bank of Louisiana, and that the facts and allegations contained in the foregoing petition are true.

(Signed) S. O. THOMAS,
Pres't Citizens' Bank of La.

Sworn to and subscribed before me, notary, at New Orleans, La., this 31st day of March, A. D. 1887.

(Signed) EDGAR GRIMA, *Not. Pub.*

Order.

Let writs of injunction issue, as herein prayed for and ac-
243 cording to law, upon petitioner furnishing bond in the sum of $1,000—one thousand ($1,000.00) dollars—as the law requires.

New Orleans, April 1st, 1887.

(Signed) P. A. MONROE, *Judge.*

Answer.

Filed April 20th, '87.

C. D. C., P'h of Orleans.

CITIZENS' BANK OF LA. *vs.* CHAS. CAVANAC, T. C. } No. 20669.

Now comes M. J. Cunningham, att'y gen'l, and for answer to pl't'ff's petition denies each and every allegation therein contained, and prays that this injunction be dissolved and they be hence dismissed with costs, and for general relief.

(Signed) M. J. CUNNINGHAM, *Att'y Gen'l.*
(Signed) JAMES C. MOISE, *Of Counsel.*

A true copy.
[SEAL.] (Signed) GEO. W. PRADOS, *D'y Cl'k.*

Petition, answers, and judgment in the case Citizens' Bank of La. *vs.* The Board of Assessors *et als.*, No. 19144, civil district court, parish of Orleans, div. "D."

(Stamps.) *Petition.*

Filed Oct. 29th, '86.

Civil District Court.

CITIZENS' BANK OF LA. *vs.* THE BOARD OF ASSESSORS *et als.* } No. 19144. Civil Dist. Court, Div. "D."

244 To the honorable the civil district court for the parish of Orleans:

The petition of the Citizens' Bank of Louisiana, a corporation established by law, domiciled in New Orleans, respectfully shows that the board of assessors for the parish of Orleans have assessed petitioner upon the assessment-rolls for 1886 for taxes to the city of New Orleans and State of Louisiana, on which the assessments are as follows, to wit:

On the banking-house of petitioner, erected on petitioner's real estate in the square bounded by Gravier, Camp, Poydras, and St. Charles streets, and on said real estate assessed at seventy-five thousand dollars, and on 10,500 shares of the capital stock of the bank, assessed at $42.75 per share, aggregating an assessment of $448,875, on which the taxes assessed will amount to upwards of fifteen thousand dollars, as appears by said assessments specially referred to for fuller explanation and greater certainty.

That under the charter of the bank granted by the State the bank is exempted from all taxation, State, parish, and municipal, in any form; that on the faith of said charter and of said exemptions the capital of the bank was furnished, the bank organized, and its banking has been for years and is now conducted, all of which more fully appears by the legislative acts on it, the act to incorporate the Citizens' bank, approved 1st April, 1833; the act amendatory of the first act, approved 30th January, 1836; the act No. 246 of 1853; the act No. 241 of 1852, and other acts on the subject, under which act of 1833 and 1836 the original capital of the bank of ten millions and under which acts of 1852 and 1853 the additional capital of the bank of one million of dollars were furnished, all of which more fully appears by the said acts specially referred to for fuller explanation and greater certainty, said
245 exemptions being contained in the 30th section of the act of 1833; that the aforesaid assessment and shares of $448,875 purports to represent the capital of the bank, and especially in excess of the value of the shares and of the capital, besides being illegal and without warrant of law; that the aforsaid real estate assessed as aforesaid is in excess of the value of said real estate, besides being illegal; that said real estate was purchased and the building thereon erected with the funds of and belonging to the capital of the bank, and said real estate and building represent and form part of said capital; that said assessments are in violation of the exemption granted to the bank and are illegal, null, and void, and any liens, if any there be, tending to direct said assessments *is* void for repugnancy to the article 1st, section 10, of the Constitution of the United States and article 155 of the constitution of the State.

That in the suit of The State Tax-collector *vs.* The Citizens' Bank, decided by the civil district court on the — ——, 1880, and affirmed by the supreme court of the State, sec. 320, Ann'l, p. 239, said exemption was maintained and adjudged valid, and said adjudication as *res judicata* against said present assessment and all demands thereon.

That within the delays and according to the forms prescribed by law petitioner protested against said assessment and applied to the board of assessors to have the assessment cancelled, but said protest and application were disregarded; that within the delays and according to the forms prescribed by law petitioner made the same protest and application to the common council and to its standing committee on assessments of the city council, but said protest and application were also disregarded.

Wherefore petitioner prays that the board of assessors for
246 the parish of Orleans and the city of New Orleans be duly cited to answer this demand; that the State tax-collector for the first district be also cited; that after due proceedings according to law there be judgment in petitioner's favor decreeing said assessment of said shares and on said real estate to be void and null and decreeing it to be cancelled and annulled, and that any inscription of the same in the mortgage office be erased and cancelled, and for general relief.

(Signed) HE'Y C. MILLER,
Att'y for Pet.

Answer.

Filed November 2nd, 1886.

CITIZENS' BANK OF LA.
vs.
BOARD OF ASSESSORS *et als.* } No. 19144. Div. D.

Now into court comes James D. Houston, tax-collector upper district, parish of Orleans, and for answer to the petition herein filed denies all and singular the allegations and averments contained in said petition except such as are hereinafter admitted.

Further answering, respondent admits that the assessments in controversy were made by the board of assessors of the parish of Orleans, who were charged with that duty, and this respondent says that all of said assessments were legally made and represent the true cash values of the properties thus assessed, and that said assessments should be maintained.

Respondent, further answering, shows that plaintiff is not entitled to any reduction of said assessments, among other reasons, because he failed to apply for relief to said board of assessors and to the committee of assessments of the city council, as the law directs.

247 Wherefore respondent prays that plaintiff's demand be rejected and his suit dismissed with costs, and that respondent have judgment in his favor and for general relief in the premises.

(Signed) BLANC & BUTLER, *Attorneys.*

Answer.

Filed November 8th, '86.

CITIZENS' BANK OF LA.
vs.
BOARD OF ASSESSORS *et als.* } No. 19144. Div. D.

And now before the court comes The City of New Orleans, and for answer to the petition herein filed she denies each and every allegation in said petition contained except such as may be hereinafter admitted, and upon trial of this cause will require strict and legal proof of such averments.

Wherefore respondent prays that plaintiff's petition may be dismissed, and that judgment may be rendered in favor of defendant and against plaintiff, with costs and general relief in the premises.

(Signed) W. H. ROGERS,
City Attorney.

(Signed) WYNNE ROGERS,
Assistant City Attorney.

Judgment.

CITIZENS' BANK OF LA.
vs.
THE BOARD OF ASSESSORS *et als.*
} No. 19144. Civil District Court, Division "D."

In this cause submitted to the court for adjudication for the reasons orally assigned by the court, the law and evidence being in favor of plaintiffs, it is ordered, adjudged, and decreed that there
248 be judgment in favor of plaintiffs, The Citizens' Bank of Louisiana, and against the board of assessors of the parish of Orleans and James D. Houston, tax-collector for the upper district for the parish of Orleans, decreeing that the assessment for the year 1886 standing against the banking-house or real estate in the square bounded by Gravier, Camp, Poydras, & St. Charles street-, assessed at seventy-five thousand dollars on 10,500 shares of the capital stock, at 42.75 per share, aggregating an assessment of $448,875, null and void and of no effect, and same be cancelled and erased from the books of their respective offices, and that any inscription of the same in the mortgage office be cancelled and erased and costs of suit.

Judgment rendered March 3d, 1887.
Judgment signed March 10th, 1887.

(Signed) N. H. RIGHTOR, *Judge.*

A true copy.
[SEAL.] (Signed) GEO. W. PRADOS, *D'y Cl'k.*

Petition of Citizens' Bank of La. and answer of city of New Orleans in the case of The Citizens' Bank of La. *v.* Board of Assessors *et al.*, No. 20541 of the docket of the civil district court, parish of Orleans.

(Stamps.) *Copy of Petition.*

To the honorable the civil district court in and for the parish of Orleans:

The petition of the Citizens' Bank of Louisiana, a corporation established by law, domiciled in the city of New Orleans,
249 respectfully shows—

That petitioner is exempted by law — all taxation, State or municipal, upon its capital, shares, and property of every description, as appears by the act of the legislature of Louisiana, approved April 1st, 1833, entitled "An act to incorporate the Citizens' Bank of Louisiana, and especially the 30th section of said act, and by the

act amendatory of the preceding act, approved January 30th, 1836, and especially by the 4th section thereof, which acts are specially referred to for fuller explanation and greater certainty.

Petitioner shows that under said charter as contained in said legislative acts, and in accordance with the conditions thereof, the Citizens' Bank of Louisiana was organized in 1836, with a capital of upwards of ten millions of dollars, then obtained from the subscribers to the capital stock in accordance with the charter of the bank; that in 1853 additional capital for the Citizens' bank of one million dollars was obtained from the subscribers thereto under the authority of the act of the legislature of Louisiana for the relief of the Citizens' bank, being the act No. 141 of 1852 and the act of the legislature of Louisiana No. 246 of 1853, approved April 28th, 1853; that the aforesaid original capital obtained in 1836, as well as the said increased and additional capital obtained in 1853, was all furnished and paid to the bank on the faith of its charter, and especially on the faith of the aforesaid exemption in the charter of all the property, stock, and capital of the Citizens' bank, and that, relying on the aforesaid exemptions, the said bank has conducted and is now conducting its banking business.

Petitioner further shows that said acts containing the charter of the said bank, and especially the provisions thereof containing said exemptions from taxation, are contracts under the protection of the articles of the Federal and State constitutions protecting con-
250 tracts, said articles being article 1, section 10, of the Constitution of the United States and similar articles in the State constitutions, and petitioner further shows that said exemptions have been decreed valid by the courts.

Petitioner further shows that, notwithstanding said exemptions from said taxation and said judgments decreeing the same to be valid, the board of assessors for the parish of Orleans are about to assess the Citizens' bank upon the assessment-rolls for the year 1887 for taxation upon its shares of stock, and upon its banking building, and upon the furniture therein used by petitioner for conducting its said banking business, and upon other property possessed by petitioner; that said proposed assessments are without warrant of law, are prejudicial and injurious to petitioner, and will cause irreparable injury to petitioner, and it is entitled to an injunction to prohibit and enjoin said assessments.

Wherefore petitioner prays that said board of assessors for the parish of Orleans and the city of New Orleans be duly cited to answer this petition; that, considering the bond and affidavit herewith filed, a writ of injunction issue, directed to said board, enjoining and prohibiting them and each member thereof from assessing the Citizens' bank for taxes, city or State, for 1887 or for any subsequent year upon the capital stock of the Citizens' bank or the shares thereof or upon the banking building of petitioner, or upon the furniture used therein, or upon any other property of petitioner; that said injunction be made perpetual, and that said board and the recorder of mortgages be prohibited and enjoined from recording

any such assessments in the office of recorder of mortgages, and for general relief.

(Signed) STANLEY O. THOMAS,
Pres't Citizens' Bank.

(Signed) HENRY C. MILLER,
Att'y for Cit. B'k.

A true copy.
[SEAL.] (Signed) GEO. STROBEL, *D'y Clerk.*

251 *Copy of Answer of City.*

Civil District Court, Parish of Orleans.

CITIZENS' BANK
vs.
CITY OF NEW ORLEANS *et al.* } No. 20541.

And now before the court comes the City of New Orleans, and for answer to the petition herein filed she denies each and every allegation in said petition contained, except such as may be hereinafter admitted, and upon trial of this cause will require strict and legal proof of such averments.

Wherefore respondent prays that plaintiff's petition may be dismissed, and that judgment may be rendered in favor of defendant and against plaintiff, with costs and general relief in the premises.

(Signed) W. H. ROGERS,
City Attorney.
WYNNE ROGERS,
Ass't City Attorney.

A true copy.
[SEAL.] (Signed) GEO. STROBEL, *D'y Clerk.*

Testimony of A. A. Lelong.

United States Circuit Court for the Eastern District of Louisiana.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF STATE ASSESSORS *et als.* } No. 12112. United States Circuit Court.

252 Testimony and notes of evidence taken in the clerk's office of the United States circuit court before Edward R. Hunt, Esq., clerk, on Friday, May 26th, 1893.

Appearances: For the Citizens' bank, Henry C. Miller, Esq.; for the State Tax-collectors and the Board of Assessors, R. Lyons, Esq.; for the City of New Orleans, H. Renshaw, Esq.

Notes of Evidence.

Mr. Miller, on behalf of the Citizens' bank, offers in evidence the following acts of the legislature of Louisiana:

Act of incorporation of the Citizens' bank, 30th January, 1836, Session Acts of 1836, page 16.

The act of incorporation of the Citizens' bank, of date 1st April, 1833, Session Acts of 1833, page 172.

The amendatory act of the act of 30th January, 1836, Session Acts of 1836, page 16.

The act No. 141 of 1852, Session ——, page —.

The provisions in the State constitution of 1852 referring to the Citizens' bank, to wit, article 121.

The act No. 246 of 1853.

The act No. 45 of 1873, Session Acts ——, page —.

Act No. 40 of 1874, Session Acts of 1874, page —.

The act No. 79 of 1880.

The act No. 106 of 1890.

The ordinances of the city council of the city of New Orleans imposing a tax and license for the year 1891, to wit, ordinance No. 5846 and Nos. —.

The record in the suit of The Citizens' Bank *vs.* L. Bouny, State tax-collector, No. — of the docket of the civil district court and No. — of the supreme court of Louisiana, reported in the thirty-second Annual, page 239.

The record in the suit of The Citizens' Bank *vs.* The City
253 of New Orleans, No. — of the docket of the civil district court—that is to say, the petition, answer, and judgment of the district court in both suits and the judgment of the civil district court and the judgment of the supreme court in the first-named suit and of the district court in the last.

Agreement.

It is agreed that all of the legislative acts referred to and any others touching the Citizens' bank, as well as the decisions of the Supreme Court that may be relied on or desired to be used by either party, may be read from the books and deemed to be in evidence as well as any of the constitutions of the State.

Mr. A. A. LELONG sworn on behalf of the Citizens' bank.

Examination-in-chief by Mr. MILLER:

Q. What was the amount of the capital stock of the Citizens' bank subscribed for under the acts of 1833 and 1836, and what number of shares of the capital stock under that charter was issued to the bank?

A. The amount subscribed was $14,400,000.

Q. The number of shares issued were how many?

A. One hundred and forty-four thousand (144,000).

Q. And those one hundred and forty-four thousand shares represented how much each?

A. One hundred ($100) dollars per share.

Q. Mr. Lelong, did the subscribers pay any money for this stock?

A. No, sir.

Q. How was the payment of the stock secured?

A. The stockholders mortgaged their property to the full amount of their subscriptions.

Q. So, then, if a subscriber subscribed for one hundred shares of stock, what would be the amount of his mortgage—the
254 mortgage on his property?

A. The amount of the mortgage would be ten thousand dollars—that is to say, the par value of the stock—the value of the shares.

Q. Mr. Lelong, will you please state the amount of the bonds of the State of Louisiana issued under the amended charter of the Citizens' bank that were negotiated?

A. The amount negotiated was seven millions one hundred and eighty-eight thousand eight hundred and eighty-eight dollars and eighty-nine cents ($7,188,888.89).

Q. Who negotiated those bonds—the bank or the State?

A. The Citizens' bank.

Q. Have you one of the bonds?

A. No, sir.

Q. Have you the form of the bond with you?

A. No, sir.

NOTE.—The form of the bond is shown by the charter itself in the act of 1836.

Q. Now, Mr. Lelong, inasmuch as the subscribers paid no money for the stock, how was the money obtained?

A. By negotiating these bonds in Europe.

Q. And who negotiated the proceeds of the bonds?

A. The Citizens' bank.

Q. And were the proceeds credited to any particular account in the bank?

A. It was credited to the capital of the bank.

Q. What amount of the bonds negotiated abroad have been taken up and what amount of the bonds are still extant?

A. Four millions six hundred and ninety-three thousand nine hundred and sixty-seven dollars and eighty cents ($4,693,967.*08*).

Q. Are still extant?

A. Yes, sir.

255 Q. Mr. Lelong, with what means were these bonds of the State, to the extent that they have been paid, taken up?

A. They have been taken up by money derived from——

Objection—Mr. Renshaw, on behalf of the city of New Orleans, objects on the ground that the witness has no personal knowledge of the matters covered by the interrogatory just propounded, and the testimony must necessarily be hearsay.

Mr. MILLER: All these questions are subject to objection.

Examination by Mr. MILLER:

Q. Mr. Lelong, with what means were those bonds of the State, to the extent that they have been paid, taken up?

A. They have been taken up with money derived from collections of loans and mortgages and foreclosures of mortgages, and

calls made by the bank against its shareholders, and profits made by the bank.

Q. You spoke of loans. By whom and to who- were those loans made?

A. Loans made by the Citizens' bank to its stockholders.

Q. Loans made on the pledge of their stock?

A. Yes, sir.

Q. And you spoke of foreclosures of mortgages. Of what character were they?

A. Mortgages executed by stockholders in favor of the Citizens' bank.

Q. To secure their stock subscriptions and loans?

A. Yes, sir.

Q. Mr. Lelong, you have referred to foreclosures of stock mortgages, of mortgages on the property of stockholders of the bank. Are you able to inform us whether the bank has now any
256 property derived from the foreclosures of these stock mortgages?

A. Yes, sir.

Q. Can you give us a statement of the amount and value of this property?

A. That would be very difficult.

Q. Can you state in round numbers if the bank owns plantations and city lots—property in the city of New Orleans?

A. The Citizens' bank owns quite a number of plantations in quite a number of parishes in this State.

Q. And how much city property?

A. Well, I can't give the value.

Q. I didn't ask you for the value. I simply asked you how much city property.

A. Very little city property.

Q. How many plantation-, in round figures?

A. That——

Q. If you can*t* give it, give it; otherwise say no.

A. I can't give a list of the plantations now.

Q. Have you a list of the parishes in which the bank owns plantations?

A. Yes, sir; of the parishes in which the bank owns plantations.

Q. Will you please give the names of the parishes in which the bank holds property acquired under the foreclosure of its stock mortgages?

A. Yes, sir; the bank holds plantaticns in the following parishes, acquired under the foreclosures of its stock mortgages in the following parishes: Avoyelles, Caddo, Catahoula, Concordia, East Carroll, Grant, Madison, Rapides, Richland, St. Landry, St. Martin, West Carroll, Tensas, East Baton Rouge, East Feliciana, Iberville, Iberia,
257 Jefferson, Lafayette, Plaquemines, Pointe Coupée, St. Bernard, Orleans, St. Charles, St. Helena, Terrebonne, and West Feliciana.

Q. Mr. Lelong, what amount of stock mortgages, stock loans, and mortgages by the shareholders in favor of the Citizens' bank are extant and unpaid?

A. There are two thousand eight hundred and sixteen (2,816) shares.

Q. Do I understand that on these two thousand eight hundred and sixteen shares extant the shareholders of the Citizens' bank have made no payments?

A. Some of them have paid contributions and stock loans.

Q. Can you state the amount of contributions or calls made upon the shareholders of these two thousand eight hundred and sixteen shares have been paid?

A. No, sir.

Q. How many calls upon the shareholders has the bank made from its organization up to the present time?

A. Thirty-two.

Q. Thirty-two calls?

A. No, sir; thirty-two dollars.

Q. That is to say, that thirty-two ($32) dollars per share have been called on these two thousand eight hundred and sixteen (2,816) shares?

A. Yes, sir.

Q. But you can't state what amount of these thirty-two dollars have been paid, can you?

A. No, sir; but some has been paid.

Q. The two thousand eight hundred and sixteen shares to which you have referred represent an indebtedness of two hundred and eighty-one thousand six hundred ($281,600) dollars?

A. Yes, sir; that is, taking the shares at par, one hundred dollars.

Q. Now, Mr. Lelong, can you state whether any loans are still due to the Citizens' bank on these two thousand eight hun-
258 dred and sixteen extant shares?

A. Yes, sir.

Q. Can you state the amount of the loans?

A. No, sir; I don't remember.

Q. Has the bank been in default on these State bonds?

A. Yes, sir.

Q. For how long a period of time?

A. I think that they have been in default ever since from the first maturity.

Q. The maturities is shown by the charter.?

A. Yes, sir.

Q. Now, you have alluded to the extant bonds of the State as amounting to four millions of dollars ($4,000,000). What are the steps, if any, have been taken by the bank to discharge the indebtedness of these extant bonds stated by you to be four millions of dollars ($4,000,000)?

A. Well, the bank is realizing its assets as quick as possible.

Q. When these assets are realized what disposition is made of the proceeds?

A. The proceeds are remitted to the agents of the bond-owners in Europe, Hope & Co., and they distribute the money to the bond-holders—the owners of the bonds.

Q. Is that the liquidation that is going on now by the Citizens' bank?

A. Yes, sir.

Q. Now, Mr. Lelong, turn your attention to the capital stock obtained by the bank, if any, under the liquidation of 1853, and state what amount of fresh capital was then obtained, if any.

A. The capital obtained then was one million of dollars ($1,000,000).

Q. That was, as I understand it, in addition to the original capital?

259 A. Yes, sir.

Q. Now, in point of fact, that was the only money capital that the bank got from the stockholders?

A. Yes, sir; nearly the whole capital was furnished by the new stockholders.

Q. Not the original shareholders?

A. No, sir.

Q. When did the bank commence business under its original charter?

A. In 1833.

Q. And the bank continued to do a banking business ever since?

A. Yes, sir; except during the time that the State placed the bank in the hands of commissioners.

Q. When did the bank go into the hands of commissioners?

A. In 1842.

Q. Liquidators, were they, or commissioners?

NOTE.—Mr. Renshaw objects on the ground that the law itself will show that.

Mr. MILLER: This question is understood to refer to the methods of liquidation under the laws of 1842.

Mr. RENSHAW: The objection is that the statutes and the judicial proceedings will show it.

Q. Now, as a matter of fact, how long did this liquidation by the commissioners continue?

NOTE.—Mr. Renshaw objects to the question on the ground that the statutes will show it.

Q. When did the liquidation of the commissioners cease?

A. At the end of 1852.

The WITNESS: The fresh capital was furnished in 1853, I think, and I ask the privilege of correcting this answer if I am in error.

Q. Now, further along in this testimony will you make a list of the property that the bank owns and let some one make an

260 estimate of the value thereof?

NOTE.—Mr. RENSHAW: I will object to the estimate of the value.

Cross-examination by Mr. RENSHAW:

Q. What amount of bonds did you state are now extant bonds of the State of Louisiana furnished the Citizens' bank?

A. Four millions six hundred and ninety-three thousand nine hundred and sixty-seven dollars and eight cents ($4,693,967.08).

Q. How many of those bonds are held by the Citizens' bank?

A. The Citizens' bank owned six hundred and sixty-five (665), but I don't remember exactly just now. I will furnish you the exact figures.

Q. Of these bonds the Citizens' bank holds six hundred and sixty-five, and you will furnish a statement showing the amount of these bonds?

A. Yes, sir.

Q. Are there two departments of this bank?

A. Yes, sir.

Q. What do you call the banking department and the mortgage-stock department?

A. The mortgage-stock department is when the first bank was established in 1833, and the cash department is the bank established according to the act of 1853.

Q. Then the shares of stock which the bank claims are exempt from taxation, are they the shares in the mortgage-stock department of the bank, as you term it, or in the bank of 1853?

A. In the bank of 1853.

Q. Then you make a distinction of the shares of stock?

A. Yes, sir.

Q. Do you recollect how much was paid by the Citizen's bank upon those bonds of the State which they claim to be owners of—how much they bought them for?

261 A. I don't remember.

Q. You will furnish a statement showing how much was paid for them?

A. Yes, sir; I will.

By Mr. LYONS:

Q. Mr. Lelong, has not the bank been paying taxes?

A. Yes, sir.

Q. For how long?

A. Well, ever since I have been the cashier of the bank I have been paying them.

Q. And how long have you been the cashier of the bank?

A. Ever since 1889.

Q. Hadn't they been paying taxes before that?

A. Yes, sir.

Q. Have they been paying taxes all along in the country up to 1892?

A. Yes, sir.

Q. In every one of those country parishes that you have mentioned?

A. Yes, sir.

By Mr. RENSHAW:

Q. Do you know what property, real estate in the parish of Orleans, the Citizens' bank owns?

A. The bank owns in New Orleans its banking-house on Gravier street, a property formerly owned by A. Thomson; a sugar refinery it was; it is in the square bounded by Tchoupitoulas, Commerce, Julia, and St. Joseph Sts. I think that is the square. Everybody knows that property.

Q. How long has the bank owned that property?

A. About two or three years—about two years.

Q. Is there any other real estate in the parish of Orleans owned by the bank?

A. We own another property lying in the third district
262 that formerly belonged to Monsseaux.

Q. On what street?

A. Down on Bartholemy St., near the convent.

Q. How long have they owned that property?

A. I only received the title about one month ago.

Q. How long before they received the title did they own it?

A. I never considered that we owned it until I received the title.

Q. Was not the adjudication made about one year ago?

A. Within nine months.

Q. Any other property, real estate, in Orleans owned by the bank?

A. Another property, but I have no title to it.

Q. Where is it?

A. That property was owned by Simms. It is on Common street.

Q. You say the bank does not own it?

A. It was adjudicated to the bank.

Q. When?

A. About a year ago.

Q. Just state any other real estate that the bank may have in this parish.

A. That is all.

Q. Was this property bought in under foreclosures of stock mortgages in favor of the bank?

A. Yes, sir; all except our banking-house on Gravier St.

Q. Were taxes due on this property that was adjudicated to the bank?

A. Yes, sir.

Q. Have you sold the old banking-house on Royal street?

A. Yes, sir; long ago.

Q. Now, Mr. Lelong, will you explain so that the court can understand it thoroughly what you understand to be the
263 banking department and the mortgage-stock department of the Citizens' bank?

A. The banking department was established under the legislative act of 1853, and works upon that act and its capital acquired from stockholders.

Q. And these foreclosures are made by the bank as it exists at present — satisfaction of those stockholders?

A. Yes, sir.

Q. Which mortgages were given as security for stock and which mortgages form part of the assets of the mortgage-stock department?

A. Yes, sir.

Q. The Citizens' bank, in its own name, forecloses these mortgages, does it not?

A. Yes, sir.

Q. And turns over the proceeds to Hope and Co., as agents of the bondholders?

A. Yes, sir.

Q. Have the shares in the original stock of the Citizens' bank any pecuniary value?

A. No, sir.

Testimony of A. A. Lelong, Recalled.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA *vs.* THE BOARD OF STATE ASSESSORS *et als.* } No. 12112. U. S. Circuit Court, Eastern Dist. La.

Testimony and notes of evidence taken in the clerk's office on Friday, 9th June, 1893.

264 Present: Henry C. Miller, Esq., for the Citizens' Bank; R. Lyons, Esq., for Board of Assessors and State Tax-collectors; H. Renshaw, Esq., for the City of New Orleans.

Testimony taken before Edward R. Hunt, Esq., clerk.

Mr. A. A. LELONG recalled by the complainant.

Examination by Mr. MILLER:

Q. Mr. Lelong, on the question of the values of the property acquired by the Citizens' bank under foreclosures of its mortgages, are you prepared to give us any statement of the values?

A. Mr. Lombard has a statement of that.

Q. Mr. Lelong, you were asked to furnish a statement of the cost of certain State bonds. Have you got that statement here?

A. Yes, sir; here it is. (Witness produces statement marked "X.") This is a statement of the price paid for 665 bonds of the State.

Q. When were these bonds acquired?

A. Acquired by the cash department in 1884.

Q. When you say that these bonds are held by the Citizens' bank do you mean by the cash department of the Citizens' bank?

A. Yes, sir.

Q. What means were used in acquiring these bonds?

A. The means of the cash department.

Q. And for whose account are these bonds now held by the Citizens' bank?

A. They are held for account of the cash department.

Q. Has there been any distribution of the profits of the mortgage-

stock department to the bondholders—has the cash department been paid the dividends on those bonds?

A. Yes, sir.

Q. Ever since the acquisition?

265 A. Yes, sir.

(Offer of evidence.)

Mr. MILLER, counsel for the Citizens' Bank: Now, in connection with the testimony of this witness, the complainant offers in evidence the compact between the mortgage and shareholders of date 1853.

Q. Mr. Lelong, under the charter of the Citizens' bank there is a provision in that charter which provides that the State shall always be entitled to profits. Have you any knowledge of the subject of these profits? Can you make any statement about them?

A. No, sir.

Q. In your testimony already given you refer to a property as owned by Simms. Has the bank any title at all to that property?

A. No, sir.

Q. I understand that it has been adjudicated to the bank?

A. Yes, sir; it has been adjudicated to the bank.

NOTE OF EVIDENCE.—Mr. Miller, on behalf of the complainant, offers in evidence the process verbel in the case of The Citizens' Bank *vs.* Mrs. A. Simms *et als.*

Q. Did the bank ever pay any taxes on that property?

A. No, sir.

Q. At the time of the adjudication were any taxes due?

A. Yes, sir.

Q. Taxes for what years?

A. A great many years.

Q. Were those taxes ever paid?

A. Not by the bank.

266 Q. By who were they paid?

A. By the sheriff. The process verbal will show it.

Q. That is the property on Common street?

A. Yes, sir.

Q. You have answered a question here in your former testimony, "We own"—that is, the bank—"We own another property in the Third district, formerly belonging to Monseau."

A. Yes, sir.

NOTE OF EVIDENCE.—Mr. Miller, on behalf of the complainant, now offers in evidence the act of sale of the sheriff to the Citizens' bank, in the case of The Citizens' Bank against Mrs. McEvoy.

Q. Is that the property to which you referred as owned by the bank in the Third district?

A. Yes, sir.

Q. How came Monseau's name to be mixed up with it?

A. He had mortgaged that property.

Q. But the foreclosure was against Mrs. McEvoy?

A. Yes, sir; she was the universal legatee.
Q. Has the bank ever paid any taxes on that property?
A. No, sir.
Q. When the bank acquired the property were any taxes due?
A. Yes, sir.
Q. For what years?
A. I don't remember.
Q. Were there taxes due for the years prior to the bank's adjudication?
A. Yes, sir.
Q. Have those taxes ever been paid?
A. Yes, sir.
Q. By whom were those taxes paid?
267 A. By the sheriff.
Q. In your testimony given here the other day you referred to a property formerly owned by Thomson. It was a sugar refinery in the square bounded by Tchoupitoulas, Julia, Commerce, and St. Joseph Sts. About what time did the bank acquire that property?
A. In June, 1891.
Q. Has the bank paid taxes on that property for the year 1892?
A. No, sir.
Q. At the time that property was sold was there any taxes due on it?
A. I don't remember.
Q. The act of sale will show that, I suppose?
A. Yes, sir.
Q. Mr. Lelong, has this bank ever paid any taxes upon its capital stock?
A. No, sir.
Q. Since you have been cashier of the Citizens' bank, has there been any attempt to assess the bank on its stock?
A. Yes, sir.
Q. When?
A. In 1892.
Q. Any before that?
A. No, sir.
Q. Has the bank ever paid any taxes on its building—the banking-house?
A. No, sir; not since I have been cashier.
Q. Not before that, to your knowledge?
A. I have no knowledge of that.

By Mr. RENSHAW:

Q. Don't you know it from the books as well as you know the balance?
268 A. From the books—I will look into it.
By Mr. MILLER: So far as the payment of taxes on the banking building is concerned, since you have been cashier, is—to your own knowledge that the bank has ever paid taxes on that building?

A. It is to my own knowledge that the bank has never paid any taxes on the banking-house.

Q. Now, Mr. Lelong, in the course of your testimony, in the cross-examination, you answered that in point of fact that was the only money capital that the bank ever got from the shareholders—*i. e.*, the capital of 1853. Who furnished that?

A. The subscribers of the capital stock. The charter explains that.

Q. Now, Mr. Lelong, with respect to the holdings of plantations in the country by the Citizens' bank, you have enumerated them by parishes; is that enumeration correct?

A. Yes, sir.

Q. You can only state the property by parishes?

A. Yes, sir.

Q. In reference to the amount that remains due on the 2,818 shares of the extant stock of the Citizens' bank, issued under the original stock of the bank, can you now make a statement of the amount due on those 2,818 shares by the stockholders who executed the mortgage?

A. There is $66 due per share, and that amounts to $185,856.

By Mr. RENSHAW: This amount of sixty-six dollars per share, which you say is the amount of balance due—do you mean upon the original shares?

A. Yes, sir.

Q. Mr. Lelong, how do you explain this statement? In July, 1884, it appears that the bank purchased 565 bonds.

A. The first purchase is 565.

Q. Par value of how much?

269 A. Florins, 251,111.11.

Q. These bonds were not payable in florins?

A. Some of them are payable in florins, I think.

Q. Are these not the bonds which issued by the State under the act of 1836?

A. Yes, sir.

Q. These bonds are payable in United States currency, are they not?

A. Some are payable in currency and some in florins.

Q. Mr. Lelong, these bonds were payable in what currency—the bond itself, upon the face of the bond, what currency *was* these bonds payable in? Were they not payable in dollars?

A. In our currency $444.44.

Q. I want to know what was the face value in our currency of the 565 bonds which were purchased by the bank on the 26th of July, 1884.

A. I don't know except from this memorandum which was taken from the books.

Q. What was the face value of the bonds in our currency—of these 665 bonds—what amount they called for in our currency and what amount you paid for them?

A. The face value of these bonds in our currency is about $295,000.

Q. For the 665 bonds?
A. Yes, sir.
Q. What I want to get at is what the bonds call for.
A. I never had them in my hands.
Q. On the 26th of July, 1884, the Citizens' bank bought 565 bonds?
A. Yes, sir.
Q. On the 12th of September, 1884, it bought one hundred?
A. Yes, sir.
Q. Were those bonds all of the same amount?
A. Yes, sir. The bonds were of the same amount as the statute required.
270 Q. Which was how much?
A. $444.44 each.
Q. Now, how much did the bank pay for these 665 bonds?
A. In dollars?
Q. Yes, sir; American dollars.
A. $67,314.20.
Q. Do you know whether the State resisted the payment of these bonds so held by the Citizens' bank?
A. I think there is a lawsuit going on about that.
Q. Don't you know there is a lawsuit going on to have these bonds funded?
A. I think there is a suit by the banking department going on to have these bonds funded.
Q. You don't know in whose name this suit is brought?
A. I have not seen the record.

Memo. of Payments for Bank Bonds.

1884.				
July 26.	For 565 State bonds, par value flor. 251,111.11.....		$57,861 76	
Sept. 12.	" 100 bonds, £10,000 State bonds, £1,969 5 | 2 c. 4.80....		9,452 44	
	665 bonds.			67,314 20

Testimony of Geo. W. Nott.

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF STATE ASSESSORS *et als.* } No. 12112.

271 Testimony taken in the clerk's office on Friday, June 16th, 1893, before E. R. Hunt, Esq.
Present: For the Citizens' Bank, Henry C. Miller, Esq.
For the City of New Orleans, Henry Renshaw, Esq., ass't city attorney.
For the Board of Assessors and the Tax-collectors, R. Lyons, Esq., representing the attorney general.

GEORGE W. NOTT, Esq., called on behalf of the Citizens' Bank.

Examination by Mr. MILLER:

Q. You are president of the Citizens' Bank of Louisiana?
A. Yes, sir.
Q. When did you become president of the bank?
A. In February, 1891.
Q. Mr. Nott, have you any knowledge whether or not the Citizens' Bank of Louisiana has ever been assessed on its banking building or on its bank stock?

Objection.—Mr. Renshaw, counsel for the City of New Orleans, objects on the ground that the assessment-rolls are the best evidence.

A. To my knowledge it has not been. In looking over the rolls in the mortgage office and at the bank I find it has not been. In some cases I found that it had been assessed on the b'k'g building, and by order of court it has been cancelled, being exempt from taxation.

Objection.—Mr. Renshaw, counsel for the City of New Orleans, objects on the ground that the judgments are the best evidence.

Q. In your examination of these rolls, in the effort to find out whether the bank had been assessed on its shares and banking building, how far did you go back?
272 A. To 1880.
Q. Where were these rolls that you examined?
A. At the mortgage office, at the corner of Royal and Conti streets.
Q. They were the rolls that purported to be the assessment-rolls of the city of New Orleans filed in the mortgage office?
A. Yes, sir.
Q. Has the bank ever made any payment of taxes assessed upon its banking building or stock?

Objection.—Mr. Renshaw, counsel for the City of New Orleans, objects on the ground that the books of the bank are the best evidence, and on the further ground that Mr. Nott, according to his own statement, only became president of the bank in February, 1891, and it being secondary evidence.

Mr. MILLER: Answer the question, Mr. Nott.
A. They have not.
Q. Since you have been president of the bank has the bank made any such payments?
A. No, sir; it has not.
Q. Now, Mr. Nott, with respect to the assessments against the Citizens' bank upon real estate, has or has not the bank been assessed upon real estate?
A. On real estate belonging to the bank acquired by foreclosures, it has in many instances.
Q. Both in New Orleans and in the country?
A. Yes, sir.

Q. Has the bank paid taxes upon assessments of real estate?
A. It has in many instances.

By Mr. RENSHAW:

Q. In this parish, the parish of Orleans?
A. Yes, sir.
Q. And in the country?
273 A. Yes, sir.

By Mr. MILLER:

Q. These payments by the bank upon real estate, were they stopped at any period?
A. They have been, sir.
Q. At what period?
A. Last year, I think. In some instances where we foreclosed we found it cheaper to pay than to go into the courts and fight it and we paid it. I think it was upon your advice, Mr. Miller.
Q. Advice of counsel for the Citizens' bank?
A. Yes, sir.
Q. The bank has acquired a large amount of real estate by foreclosures of mortgages?
A. Yes, sir; all of it.
Q. Is it to that real estate that you refer to that the taxes were paid?
A. Yes, sir.
Q. Did you adopt any policy of payment when you came into the bank as president?
A. Yes, sir; shortly after I came into office I informed my board that we were paying taxes upon property upon which we were exempt from taxation.
Q. You were appraised by counsel that the exemption of the bank was not only on the capital, but on the banking building and all property?
A. Yes, sir.
Q. In those cases where the bank has acquired property under the foreclosure of its stock mortgages, have or have not the taxes been paid out of the proceeds of the property?
A. Yes, sir.
274 Q. In many cases there was generally large amounts due on the foreclosures?
A. Yes, sir.
Q. Mr. Nott, does the Citizens' bank own any real estate now, acquired under the foreclosure of its stock mortgages?
A. A great many, about five hundred thousand dollars, and this property is held for account of its bondholders.

By Mr. RENSHAW:

Mr. Renshaw, counsel for the City of New Orleans, objects on the ground that the title is the best evidence.

By Mr. MILLER:

Q. What course has the bank pursued in respect to the sale of the property?

A. As soon as we find a purchaser we sell, and as soon as we sell we send the money to the bondholders. The sale is made and the money is remitted to the bondholders in Amsterdam, Hope & Co.

Q. Is this money remitted at stated intervals?

A. Yes, sir.

Q. The real estate held now by the bank under the foreclosures of its mortgages is of considerable amount?

A. Yes, sir; about five hundred thousand dollars ($500,000).

Q. Now, do I understand that this property which is thus held is the resource upon which you rely to pay the bonded debt?

Objection.—Mr. Renshaw, counsel for the City of New Orleans, objects on the ground that the question is irrelevant.

By Mr. MILLER: Mr. Nott, what is your answer to the question?

A. Exactly; yes, sir.

Q. Are there any other assets in the Citizens' bank applicable to the payment of this bonded debt?

Objection.—Mr. Renshaw, counsel for the City of New Or-
275 leans, makes the same objection.

A. Stocks upon which we have not yet foreclosed.

Q. Do you mean stock mortgages?

A. Yes, sir; and stock notes. I mean the stock shares of the old concern. For instance, in the case of this man B. S. we have not yet acquired the property. A great many are in suit.

Q. You refer to stock mortgages. Will you please state if you refer to the mortgages executed by the shareholders of the Citizens' bank?

A. To both.

Q. As I understand it, mortgages given to secure their stock subscriptions?

A. Yes, sir.

Q. Now, what amount of these mortgage debts remain to be foreclosed or collected?

A. I don't suppose it will exceed fifty thousand dollars.

Q. What amount is yet to be collected on the face?

A. A hundred thousand dollars ($100,000.00).

Q. Now, then, besides the mortgages executed by the mortgage shareholders, does the bank hold any mortgage given by the shareholders for loans on their stock?

A. Yes, sir.

Q. What are the amount of these notes?

A. Very small; I suppose from one hundred and fifty to two hundred thousand dollars of notes—vendors' notes on property which we have sold and which have not been satisfied.

Q. When you say property that you have sold do you mean prop-

erty acquired by foreclosure and resold—that is to say, assets of properties mortgages ordinarily by the shareholders?

A. Yes, sir.

Cross-examination by Mr. RENSHAW:

276 Q. When you went into office in February, 1891, as president did you find that the bank had been paying taxes upon its real estate in the parish of Orleans?

A. I found that out long after—about one year after.

Q. Had not the bank been doing so for a series of years?

A. Yes; I found that it had been done every time there was a foreclosure. I found that they paid the taxes.

Q. Did you after foreclosing a mortgage and having the property adjudicated to the bank immediately resell it?

A. In some cases we did and in others no.

Q. In some years the bank held it quite a time?

A. Yes, sir.

Q. During the years that the bank held it was it not assessed in the name of the Citizens' bank?

A. Yes, sir.

Q. I understood you to say that property adjudicated to the bank at a foreclosure sale was not always immediately sold?

A. Yes, sir.

Q. And that property in some instances was sometimes held for a number of years by the banks?

A. Yes, sir.

Q. And while so held assessed in the name of the bank?

A. Yes, sir.

Q. And while so held and assessed in the name of the bank the bank paid the taxes on it?

A. Yes, sir; in a great many instances upon our resale of the property and by advice of our counsel instead of going into court and fighting it we paid the taxes, as we found it much cheaper to do so than to litigate.

Q. How often has the bank building been assessed?

277 A. According to the certificate it has been assessed for several years.

Q. I am not asking you according to the certificate, but according to the rolls.

A. Several years; in fact every new administration that comes in does it.

Q. I understood you to say that you had examined the rolls?

A. I have, and I think that it was four or five times that it was assessed.

Q. Do you say this from your examination?

A. Yes, sir.

Q. That refers to the present banking-house on Gravier St.?

A. And the old one, too.

Q. Was the old banking-house assessed?

A. Yes, sir.

Q. The present one on Gravier street has been assessed for 1889, 1890, 1891, and 1893?

A. It has.

Q. That is four times. Do you know whether it has been assessed any more than that?

A. No, sir.

Q. Can you state whether the old banking building on Custom-house and Royal Sts. had ever been assessed?

A. It is my impression that it had.

Q. And how often?

A. Several times.

Q. Did not the bank make payments of taxes upon real estate to the city of New Orleans assessed in its name in 1892?

A. I can't tell you.

By Mr. LYONS:

Q. I believe you testified that the bank paid these taxes in many cases because the amounts were so small?

278 A. No, sir; because in many cases it was cheaper to pay than to litigate.

Q. And for the same reason that applied to the payments in the country parishes?

A. Yes, sir.

Q. Did the bank ever list its property with the assessors in the country for taxation?

A. You mean making returns?

Q. Yes, sir.

A. My impression is that they have done it. I think so.

Q. You have paid all your taxes in the country on real estate?

A. No, sir; we have refused to do it.

Q. For which years have you refused to do it?

A. Last year.

Q. You refused to pay last year's taxes?

A. Yes, sir.

Q. Didn't you pay some taxes in two or three parishes?

A. I don't think so.

By Mr. HENSHAW:

Q. The property in the country and city was acquired under foreclosure of mortgages?

A. Yes, sir.

Q. That is to say, that the property in the city of New Orleans, parish of Orleans, was acquired under foreclosure of mortgages the same as the property in the country was?

A. Yes, sir.

Testimony of A. A. Aubertin and George Guinault.

I am dept. recorder of mortgages for the parish of Orleans; have been in that capacity for years.

279 I have examined the assessment-rolls for city and State taxation filed in the office of the recorder for the parish from 1870 to 1892.

There are no assessment on those rolls against the Citizens' bank on its capital in those years except as follows: I find on the rolls of 1870, 1871, and 1873, the Citizens' bank is marked free. On the rolls in the place where the assessment should be for those years is marked free. On the Citizens' banking building, on the cor. of Royal and Custom-house Sts., for years 1874, 1875, and 1877, the assessment on the rolls is $75,000 for each said years; for 1884 and 1885 the assessment on the banking building is $75,000. On the rolls for same years the capital of the bank is assessed—that is, those assessments are on the shares of stock; from 1887 to 1892 there are no assessments on the rolls against the bank on capital or on the banking building or on the shares. In the place for the assessments there is the word exempt and the name of the bank, but no assessments, and all the assessments of which I have spoken have been marked cancelled by order of court. My examination of the rolls has been to 1870 and I have stated all the assessments. My examination was restricted, of course, to the assessment district in which the bank is located, where its capital or banking building or shares would have to be assessed.

Cross-examination:

For the years 1889 to 1892 there are supplemental assessment-rolls of shares against shareholders; they were filed about December, 1892.

Mr. A. E. Aubeton, dep. sheriff for this parish, has been for years.

Mr. Aubertin's Statement.

I have knowledge of the foreclosure in the parish of Orleans by the Citizens' bank of its stock and loan mortgages granted
280 by its shareholders. The foreclosures for the last fifteen years have been fully two hundred and fifty. In all these foreclosures the averages of taxes assessed against the mortgagors have been large; in many cases the taxes unpaid by the owners have equalled the value of the property. All these taxes assessed against the mortgage stockholders, owners of this property, have been paid by the Citizens' bank; had to be paid so that the bank could get the title from the sheriff under the foreclosures. The taxes paid by the bank have been large. I had to pay them and obtain the money from the bank. In some cases the taxes thus paid have exceeded $1,000.

All objections reserved to above.

My testimony refers altogether to assessments against the owners, the mortgage shareholders, not to assessments against the bank, as to which I have no knowledge.

(Signed) A. E. AUBURTIN.

Cross-examination:

My investigation, as I have already testified, is restricted to the assessment district in which the banking building is situated; there

are assessments upon real estate owned by the Citizens' Bank of Louisiana in other districts in New Orleans, although I cannot particularize them. The boundaries of the parish of Orleans and of the city of New Orleans are the same.

(Signed) GEO. GUINAULT.

281 AN ACT

To authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares and compact or articles of association between the mortgage and cash stockholders of the bank.

Adopted on 26th July, 1853.

282 AN ACT

To authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares.

SECTION 1. Be it enacted by the senate and house of representatives of the State of Louisiana in General Assembly convened, That the board of directors to be elected under the act of tenth March, eighteen hundred and fifty-two, entitled "An act for the relief of the Citizens' Bank of Louisiana," shall have power to raise one million of dollars, by obtaining the payment in cash of ten thousand out of the one hundred and forty-four thousand shares composing the capital stock of said bank, and for that purpose the said board of directors are hereby authorized to set apart, to be disposed of as hereinafter stated, a proportion of the stock held by each stockholder, not exceeding one out of every fifteen shares; which shares so set apart, together with such proportion of the stock now held by the bank as will make up ten thousand shares, are to be paid in full at the time and in the manner to be determined by the board, in order to constitute a cash stock; provided the mortgages existing against the stockholders to secure the portion of the stock so set apart shall not be thereby considered as raised, and the contribution due on the same shall remain as heretofore, payable by each of them respectively.

SECT. 2. Be it further enacted, &c., That those who shall become, as hereinafter provided, the owners of said cash stock, shall
283 be designated as the cash stockholders of the bank, and shall, besides any yearly interest which they may receive on the stock so paid in, if any be allowed, share in the profits or losses of said bank in the proportion of the amount of said stock paid in to the amount of the available banking assets of the bank, to be estimated and fixed by the board of directors, and on such terms and conditions as shall be determined by said board; the same, when so determined, to be binding on and between the holders of said cash stock and mortgage stock respectively: Provided the profits accruing to the mortgage stock shall be divided only at such times, in such proportion, and with such participation of the State therein as is provided by the charter of said bank, and by the act entitled

"An act amendatory and supplementary to the several acts relative to the Citizens' Bank of Louisiana," approved thirtieth January, one thousand eight hundred and thirty-six.

SECT. 3. Be it further enacted, &c., That subscriptions towards constituting the said cash stock shall be received at the office of said bank in New Orleans, under the superintendence of the board of directors, after thirty days' previous notice of the terms and conditions agreed upon by said board, which shall be considered as binding upon the subscribers. The subscription shall continue open every day, Sundays excepted, for the term of thirty days, between the hours of ten o'clock a. m. and two o'clock p. m., at the expiration of which term the directors or a majority of them shall proceed to take an account of said subscription, and if any more than ten thousand shares have been subscribed, the said directors shall deduct the amount of such excess from the largest subscriptions, in such a manner that no subscription shall be reduced in amount while any one remains larger: Provided that subscriptions by any stockholder shall not be reduced below the number of shares set apart from the stock owned by him, to constitute said cash stock. But in case ten thousand shares be not subscribed during the said thirty days, then the subscription book may be reopened, either on the same or on different conditions, at any time the board shall determine.

284 SECT. 4. Be it further enacted, &c., That the 17th section of the charter of said bank is hereby so amended, that at all elections for directors after the acceptance of this act, stockholders on the mortgage stock shall be entitled to the following number of votes, viz:—On from one to twenty-five shares, one vote per share; on from twenty-six to fifty shares, to thirty votes; on from fifty-one to one hundred shares, to thirty-five votes; and on every additional one hundred shares to five additional votes.

Every holder of cash stock shall be entitled to one vote for each share, and shall be eligible as director, provided he shall own twenty-five shares at the time of such election.

SECT. 5. Be it further enacted, &c., That this act be in force only after having been accepted in writing by a majority in number and amount of the stockholders of the Citizens' Bank of Louisiana.

(Signed) E. WARREN MOISE,
Speaker of the House of Representatives.

(Signed) W. F. GRIFFIN,
President pro Tem. of the Senate.

Approved April 28th, 1853.

(Signed) P. O. HEBERT,
Governor of the State of Louisiana.

285 *Compact or Articles of Association Between the Mortgage Stockholders and the Subscribers to the Cash Stock of the Citizens' Bank of Louisiana.*

Whereas, by an act of the legislature of this State, entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved 28th April, 1853, the board of directors elected under the act of the 10th March, 1852, entitled "An act for the relief of the Citizens' Bank of Louisiana," are authorized "to raise one million of dollars, by obtaining the payment, in cash, of 10,000 out of the 144,000 shares composing the capital stock of said bank;" and

Whereas, the aforesaid act of 28th April, 1853, has been "accepted by a majority in number and amount of the stockholders of the Citizens' Bank of Louisiana," as therein provided; and

Whereas, the board of directors elected as aforesaid, have, by virtue of the 1st section of said act of 28th April, 1853, set apart, as therein directed, ten thousand shares, of $100 *kollars* each, making the sum of $1,000,000,—to be paid in full at the times and in the manner to be determined by the board—

Be it therefore known, that in order to carry into effect the provisions of the above-recited acts, the board of directors of the
286 Citizens' Bank of Louisiana have this day agreed upon the terms and conditions hereinafter stated, which shall be and form a compact between the subscribers to the cash stock and the holders of the mortgage stock respectively, the same to be and remain binding on themselves, their heirs, executors and assigns, pending the duration of the charter of this bank, to wit:

Article I.

Those who shall become the owners of the said cash stock shall be designated as the cash stockholders of the bank. No yearly interest shall be allowed them on the stock so paid in, but they shall share in the profits or losses of said bank, in the proportion of the amount of said stock paid in to the amount of the available banking assets of the bank, to be estimated and fixed by the board.

Article II.

On a careful examination of all the assets of the bank, the board have "estimated and fixed" the amount therein available for banking purposes, at $500,000.

Article III.

The capital of the bank shall be divided into two distinct and separate funds, the one to be denominated the "banking department" of the Citizens' Bank of Louisiana, which shall constitute the movement of the bank—the other, the "mortgage-stock department" of the Citizens' Bank of Louisiana, which shall represent its dead weight.

The banking department as aforesaid, shall consist of the "available banking assets of the bank," above fixed at $500,000, which shall be transferred to this department on the 1st day of September next and of the $1,000,000 to be raised by subscription to the 10,000 shares of cash stock. This joint fund of one million five hundred thousand dollars shall constitute the active capital of the bank, and from and after the first day of September next, all loans, discounts,
or other banking operations, which may be determined by
287 the board of directors, (apart from those necessary for the administration and reinvestment of the assets belonging to the mortgage-stock fund) shall be carried on with the capital composing the banking department, and for its exclusive benefit, and at its risk; the profits or losses arising therefrom to be shared in by the cash stockholders and the mortgage stockholders in proportion to the amount of capital furnished by them respectively, to constitute said fund.

The mortgage-stock department shall consist of the present assets of the bank, after deducting therefrom the $500,000 transferred as aforesaid; which assets, composed of real estate, stock, loans, loans on mortgage, long paper, book accounts and other unavailable securities of whatsoever nature and kind, shall constitute the capital of this department. This fund, (reposing on the additional guarantee of $14,000,000 of mortgaged property) shall remain exclusively appropriated to the redemption of the present liabilities of the bank, and, from and after the said first day of September next, shall be administered by the board of directors for the sole benefit and at the risk of the mortgage stock; for which purpose a distinct and separate account shall be kept of all the transactions connected with the collection and reinvestment of said assets and the payment of said liabilities. The profits or losses, to arise from the working of this fund, shall belong exclusively to the mortgage stockholders, on their 134,000 shares.

* The books and accounts of this department shall be kept by an officer, to be designated as the "controller of the mortgage-stock department." He shall receive and retain, under his and the cashier's joint control, until deposited with the note clerk or other officer of the bank, for collection, the stock and contribution notes,
bills receivable, bonds and other evidences of debt belonging
288 to this fund; and it shall be the duty of the controller to report to the board all defaulters or parties in arrears within three days after any stock note or other obligation belonging to this department shall have become due and remain unpaid. He shall also take charge of all policies of insurance deposited with the bank, as collateral security, and cause the same to be renewed, from time to time, as required by the charter, and further perform such other duties, appertaining to the administration of this department of the bank, as may be required by the cashier or board of directors.

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* This supplement to the 3d article, was adopted as part thereof, on 14th October, 1853, previous to the reopening of the books of subscription to the cash stock.

The controller shall be appointed by the board of directors, in the same manner, and his tenure of office shall be the same, as provided in the by-laws for the other officers of the bank. He shall give security for the faithful performance of the duties of his office, and shall receive such compensation as may be fixed by the board, not exceeding three thousand dollars per annum, to be paid out of the funds of the said mortgage-stock department.

Article IV.

No sums arising from the collection of any portion of the assets of the mortgage-stock department shall ever be used for the benefit of the banking department. But all such sums, when not immediately applied to the payment of the present liabilities of the bank, shall be reinvested, as soon as practicable after their collection, in bills, notes, or other approved securities. And in order more fully to carry into effect the above-recited provisions it shall be the duty of the cashier to furnish, once a week, a correct statement of the actual condition of said mortgage-stock fund and its prospective liabilities; and it shall be the duty of the board of directors for the time being, to provide, out of its means, for said liabilities, as they shall become due, or to anticipate any portion thereof, whenever, in the opinion of the board, the situation of this fund shall warrant its being effected on advantageous terms.

Article V.

Should advances in cash be required at any time, by the "mort-
gage-stock department," for the punctual payment of the for-
289 eign debt, they shall be made by the "banking department," either by discounting such notes, bills receivable, bonds, or other securities belonging to the said mortgage-stock fund as may be necessary for that purpose, or by debiting, at the option of the board of directors, such advances to said fund at the usual rates of discount, the same to be reimbursed out of the first monies collected for its account. But no portion of the capital stock of the banking department, as herein provided, shall ever be diverted from its legitimate operations, except for the purposes and under the conditions stated in this article.

Article VI.

In addition to the guarantees contained in the preceding article for the security of any loan, or for the prompt reimbursement of any sum or sums which may or shall ever be advanced to the "mortgage-stock department" as therein provided, it is hereby stipulated and agreed that the $500,000, contributed by the mortgage stockholders towards the capital of the "banking department" of the bank, shall be and form a perpetual pledge to the cash stockholders for the purposes and to the ends of securing them, in whole or in part, for any such loans or advances of money; and the $1,000,000 of capital to be furnished by the cash stockholders shall, in like manner, be and form a perpetual security to the mortgage stockholders of the bank

for any liabilities which shall or may be incurred by the banking department thereof; it being the true intent and meaning of this compact or agreement that the cash stockholders shall only be held responsible for the liabilities of the banking department, as aforesaid, and in proportion as the amount paid in by them bears to the $500,000, contributed by the mortgage stockholders to form the capital of said department.

Article VII.

In consideration of the banking privileges under the charter, which will only expire in 1886, and which, in accordance with the above provisions, will hereafter inure almost exclusively to
290 the benefit of the "banking department," the following expenditures and outlays, incidental to the administration of both of said funds, to wit; the salaries of the president and cashier, clerk hire, salary of the bank's attorney in the city of New Orleans, cost of banking-house, rent, stationery or other office expenses, shall be exclusively at the charge of, and borne by, the "banking department." All other outlays and incidental expenses shall be at the charge of either of said funds, respectively, for whose account the same may be incurred.

Article VIII.

The books and accounts of both departments of the bank shall be regularly balanced twice in each year, when the board of directors shall, unless otherwise determined, proceed to declare, out of the surplus profits realized from the administration of the capital of the banking department, such dividends as they may deem expedient; but they are hereby authorized to set apart a portion of said profits to constitute a permanent reserve fund to meet contingencies.

Article IX.

The dividends accruing to the holders of the cash stock shall be paid to them in cash, at such times as the board may determine; and the portion thereof belonging to the mortgage stockholders, on their $500,000 capital aforesaid, shall be regularly carried to the credit of the mortgage-stock department and applied to the payment ot its liabilities or reinvested for its account, along with its other assets, as provided in the 3rd and 4th articles.

The net profits realized by the "mortgage-stock department" of the bank shall be divided among the holders of the mortgage stock, at the times and in the manner provided by the charter and acts amendatory thereto.

Article X.

No stockholder shall have the right to require a loan on the pledge of the cash stock, nor shall the bank ever loan on the same more than thirty dollars per share.

291 The registry and transfer of the cash shares, and the issue

of certificates for the same, shall be subject to such regulations as the by-laws may direct.

Article XI.

In case any act or acts shall hereafter be passed by the legislature, the acceptance of which by the stockholders may be necessary, such acts shall be approved by a majority, in number and amount, of the holders of each of said stocks respectively, before becoming binding on this corporation.

Article XII.

At all elections for directors, as provided by the charter (other than that to be held on the first Monday of February next) holders of the cash stock shall not be entitled to vote unless they shall have held, in their own name and right, the stock on which they propose to vote, at least six months preceding said election, the same provision existing in the charter as regards the mortgage stockholders; but every holder of cash stock is entitled to one vote for each share, and is eligible as director, provided he own 25 shares at the time of such election. Each share of mortgage stock up to 30 shares is entitled to one vote per share, from 31 to 50 shares to thirty votes; from 51 to 100 shares to thirty-five votes, and on every additional 100 shares to five additional votes, and the holders of mortgage stock must possess fifty shares to entitle them to be eligible as directors.

Article XIII.

The shares of cash stock shall be payable in specie, as follows:

$10 per share at the time of subscribing.
15 " " on 5th November next.
25 " " 15th December "
10 " " 15th January "
15 " " 15th February "
25 " " 15th March "

On all instalments in arrears, interest at the rate of eight per cent. per annum, shall be charged; and the board of directors
292 shall have the right to cause to be sold, for account and risk of defaulting subscribers, any share or shares on which such instalment may be due and remain unpaid.

Article XIV.

On the termination of the charter of the bank, three commissioners shall be appointed to liquidate the banking department thereof, two of whom to be chosen by the cash stockholders (should the whole 10,000 shares cash stock have been subscribed and paid in) and one by the mortgage stockholders. The aforesaid commissioners shall proceed to a prompt realization of the assets of said department of the bank and the discharge of its liabilities, in order to effect a division of the capital stock; provided, that nothing herein contained be construed to invalidate the pledge of the $500,000

capital of the mortgage stockholders, to the cash stockholders, as set forth in the 6th article of this compact, no portion of which capital shall be paid over to the mortgage stockholders or their lawful representatives, until all advances which may have been made for their account, by the banking department, shall have been discharged. But in proportion as the liabilities of the banking department of the bank shall have been paid off and the remainder amply secured, the said commissioners, or a majority of them, may proceed, from time to time, to make a dividend on the $1,500,000 capital stock of the same.

Article XV.

Subscriptions toward constituting the said cash stock, shall be opened at the office of the bank, under the superintendence of the board of directors, at such time as they may determine, after thirty days' previous notice of the terms and conditions agreed upon. The subscription shall continue open every day, Sundays excepted, for the term of thirty days, between the hours of ten o'clock, a. m. and two o'clock p. m., at the expiration of which term, the directors, or a majority of them, shall proceed to take an account of said subscriptions, and, if any more than ten thousand shares
293 shall have been subscribed, the said directors shall deduct the amount of such excess from the largest subscriptions, in such a manner that no subscription shall be reduced in amount while any one remains larger; provided, that subsciptions by any stockholder shall not be reduced below the number of shares set apart from the stock owned by him, to constitute said cash stock.

JAMES D. DENEGRE, *President.*

Citizens' bank of Louisiana, New Orleans, July 26th, 1853.

A true copy.

EUG. ROUSSEAU, *Cashier.*

294 *List of Property Owned by the Citizens' Bank in the Various Parishes of the State of Louisiana and Assessments for the year* 1892.

Filed with supplemental bill March 1, 1893.

List of Property Owned by the Citizens' Bank of La. in Parishes Comprising the 5th Circuit & Eastern Dist. of La.

Sheriff.	Parish.	Assessments 1892.	Taxes claimed for 1892.
J. H. Slaughter	East Baton Rouge	$800	12 90
J. V. Jones	East Feliciana	3,955	56 58
C. T. Cade	Iberia	3,128	98 99
A. A. Browne	Iberville	7,000	219 35
Wm. L. Langridge	Jefferson	21,000	814 36
C. E. Lorio	Lafourche	300	14 75
C. V. Thibaut	Plaquemine	13,000	375 14
E. C. Benker	Pointe Coupee	5,200	181 65
E. E. Nunez	St. Bernard	8,450	243 36
Lewis Ory	St. Charles	19,000	553 50
J. H. Womack	St. Helena	465	6 66
A. W. Connerly	Terrebonne	4,000	132 25
John H. Clack	West Feliciana	8,000	

295 *Evidence Offered by the City of New Orleans.*

Act of April 1st, 1833, of the legislature of Louisiana, incorporating the Citizens' bank.

Act of January 30th, 1836, of the legislature of Louisiana, amendatory and supplementary to the several acts relative to the act to incorporate Citizens' Bank of Louisiana.

Act 141 of 1852 of the legislature of Louisiana.

Act 246 of 1853 of the legislature of Louisiana.

Constitution of Louisiana of 1868.

Constitution of Louisiana of 1879.

Act 79 of 1880 of the legislature of Louisiana.

Act 85 of 1888 of the legislature of Louisiana.

Act 106 of 1890 of the legislature of Louisiana.

All of the foregoing acts to be read from the printed volumes.

Copy of notarial act, April 27th, 1881, before Grima, notary public (marked Exhibit "A").

Copied at page 52 of this transcript.

Certificate of secretary of state of Louisiana showing acceptance by Citizens' bank of act 79 of 1880.

Copied at page 62 of this transcript.

Ordinance of the city of New Orleans, No. 5846, C. S.

Copied at page 62 of this transcript.

Deposition of Charles H. Schenck, Marked "D. Y."

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF STATE ASSESSORS *et als.* } No. 12112.

296 Testimony and notes of evidence taken in the clerk's office of the United States circuit court before E. R. Hunt, Esq., on Friday, 16th June, 1893.

Present: For the Citizens' Bank, Henry C. Miller, Esq.; for the City of New Orleans, Henry Renshaw, Esq., ass't city attorney; for the Board of State Assessors and the Tax-collectors, R. Lyons, Esq.

CHARLES H. SCHENCK called on behalf of the City of New Orleans.

Examination by Mr. RENSHAW, ass't city attorney:

Mr. Schenck, what is your official position in the government of the city of New Orleans?

A. I am the treasurer of the city of New Orleans.

Q. Have you had occasion to examine the assessment-rolls of real estate in the parish of Orleans for some years back?

A. I have.

Q. Did you find any real estate assessed against the Citizens' Bank of Louisiana?

A. Yes, sir.

Q. For any number of years?

A. You asked me to go back to 1880.

Q. You found assessments in this parish against real estate in the name of the Citizens' Bank of Louisiana as far back as 1880?

A. Yes, sir.

Q. Can you tell me whether the Citizens' Bank of Louisiana has paid taxes upon those assessments?

A. They have.

Q. Can you tell me for what amount the Citizens' Bank of Louisiana was assessed on real estate for the year 1892?

297 A. Yes, sir. The bank was assessed for forty-eight thousand three hundred dollars. The tax was $975.66.

Q. Can you tell me what amount was paid by the Citizens' bank upon the said assessment? Of course, I refer to cash payments; I have no reference to reductions or cancellations of assessments. I want to know what amount was paid into the city treasury.

A. Our register shows that they paid on that bill $585.80.

Q. By our register do I understand you to mean the records of the city of New Orleans, treasury department?

A. Yes, sir.

Q. Go on, if you please, and give us the other years. You have given us the year 1892. Let me know the assessment in the parish of Orleans on real estate in the name of the Citizens' Bank of Louisiana for the year 1891.

A. The assessment was eighteen thousand seven hundred and fifty dollars ($18,750) for 1891. The tax was $378.75.

Q. What proportion of that was paid by the bank?

A. The whole bill, three hundred and seventy-eight dollars and seventy-five cents ($378.75).

Q. Now, sir, for the year 1890. What was the assessment on real estate in the parish of Orleans against the Citizens' bank for the year 1890?

A. Twenty-six thousand and fifty dollars ($26,050). The tax was $526.21.

Q. How much of that was paid by the bank?

A. The bank paid the tax on that of $526.21.

NOTE OF EVIDENCE.—Objection. Counsel for the Citizens' Bank objects to any evidence tending to show the assessments on
298 the ground that it is secondary evidence. Objection is made to any proof tending to show that there was any assessments at all.

—. Now, what was the assessment on real estate against the Citizens' bank for the year 1889?

A. The assessment for the year 1889 was twenty-six thousand dollars ($26,000).

Q. And the taxes?

A. Were $525.20, which were paid.

Q. Of course, all through this examination I am asking about the parish of Orleans and the assessment against the Citizens' bank on real estate. Now, I ask you the same question as to the year 1888.

A. The assessment is forty-one thousand three hundred dollars ($41,300), and the taxes $834.26.

Q. Was that paid?

A. It was all paid except one amount, which was $27.77, which was a reduction by judgment of the second city court.

Q. Now, I ask you the same question as to the assessment against the Citizens' bank for the year 1887.

A. The assessment was forty-two thousand seven hundred dollars ($42,700), and the taxes were $862.54.

Q. And how much of that amount was paid?

A. The whole of it.

Q. What was the assessment on real estate against the Citizens' bank for the year 1886?

A. The assessment was one hundred and fifteen thousand two hundred dollars ($115,200).

Q. And the amount of taxes?

A. Two thousand three hundred and twenty-seven dollars and four cents ($2,327.04).

Q. How much was paid?

A. $509.04.

299 Q. Now for the year 1885?

A. The assessment was one hundred and twenty thousand seven hundred dollars ($120,700.00).

Q. And the taxes?

A. Three thousand and sixty-five dollars and seventy-eight cents ($3,065.78).

Q. And of that amount how much was paid?

A. Eight hundred and eighty-three dollars and ninety-two cents ($883.92).

Q. For the year 1884?

A. For 1884 the assessment was one hundred and twenty-two thousand two hundred dollars ($122,200.00).

Q. And the taxes?

A. The taxes were two thousand four hundred and forty-four dollars ($2,444.00).

Q. And how much was paid?

A. Seven hundred and fourteen dollars ($714.00).

Q. For the year 1883?

A. The assessment for the year 1883 was one hundred and eighty-one thousand eight hundred and fifty dollars ($181,850.00). The tax on that was three thousand six hundred and thirty-seven dollars ($3,637.00). Paid on that two thousand one hundred and seven dollars ($2,107.00).

Q. Now for the year 1882?

A. The assessment was two hundred and twenty-five thousand eight hundred dollars ($225,800.00). The taxes were seven thousand one hundred and sixty-nine dollars and fifteen cents ($7,169.15).

Q. How much of that was paid?

A. Seven thousand and eighty-six dollars and sixty cents ($7,086.60).

Q. For the year 1881?

300 A. Assessment two hundred and ten thousand three hundred dollars ($210,300.00).

Q. On real estate?

A. Yes, sir.

Q. And how much was the taxes?

A. Three thousand seven hundred and fifty-one dollars and seventy-five cents ($3,751.75).

Q. And what was paid?

A. That whole amount was paid on March 30th, 1881.

Q. The year 1880?

A. For 1880 the assessment was two hundred and five thousand six hundred dollars ($205,600.00); taxes, three thousand seven hundred and forty-three dollars and ninety-seven cents ($3,743.97); paid, $3,744.61.

Statement from the books of the city treasurer offered in evidence.

Mr. Renshaw, on the part of the City of New Orleans, offered in evidence a statement in connection with the testimony of the witness Charles H. Schenck, marked document "X."

Objection.—Mr. Miller, counsel for the Citizens' Bank, makes the same objection as heretofore made to the offer of this paper, on the ground that the assessment-rolls would be the best evidence.

Cross-examination by Mr. MILLER:

Q. Do you know who made these payments?

A. I do not, because I was not in the office at that time.

Q. Do the books of your office show who made the payments?

A. No, sir; but they were made.

Q. Then you can't state who made the payments?

A. I don't know.

Q. All that you do know is that your books show that
301 these taxes were paid on this property?

A. Yes, sir.

Q. Did you make this statement yourself?

A. No, sir; but it was made under my supervision at the treasury. I was ordered to furnish a statement.

Q. Then you have no knowledge yourself of these assessments?

A. Of some of them I have.

Q. Which are the ones of which you have a personal knowledge?

A. Of 1892 I have.

Q. In other words, the statement itself is furnished from the books?

A. Yes, sir.

Q. You yourself didn't make this statement from the books?

A. No, sir.

Q. Therefore you have no personal knowledge of it at all?

A. Of some I have. I saw Mr. Blackmar when he was making it up, and he put in some personal taxes, and I made him leave them out and make another statement, and this is it here.

Q. Having stated that you had personal knowledge of some of

the assessments referred to in the paper which you have offered in evidence, will you please indicate the assessments of which you have personal knowledge?

A. The one of 1892 was made under me. We started at 1892 and we went back.

By Mr. RENSHAW:

Q. This statement was made under your supervision?
A. Yes, sir.
Q. And it was made at the request of the assistant city attorney?
A. Yes, sir.
Q. The taxes for the year 1892 were paid to you?
A. Yes, sir.

302 By Mr. MILLER:

Q. Who paid the taxes for 1892 to which you refer?
A. Well, I don't know; the Citizens' bank or somebody else.
Q. But you don't know who paid the taxes for 1892?
A. No, sir; but they were paid. People are not in the habit of paying other people's taxes.

Testimony of A. E. Blackmar, Marked "D–Z."

A. E. BLACKMAR called on behalf of the City of New Orleans.

Examination by Mr. RENSHAW:

Q. What position do you occupy in the government of the city of New Orleans?
A. I am research clerk of the back-tax department of the treasury.
Q. As such have you any familiarity with the tax and assessment rolls of the city of New Orleans?
A. Yes, sir; with the years previous to the year 1892 I am thoroughly familiar.
Q. Can you state whether, in the parish of Orleans, the Citizens' Bank of Louisiana is assessed for taxes on real estate?
A. The bank is, sir.
Q. For any number of years?
A. Yes, sir; from 1880 to 1892, inclusive, for various amounts on various pieces of real estate.
Q. Have you personally examined the books and know such to be the case?
A. Yes, sir.
Q. Can you begin from 1892 and go backwards and state what amount is assessed on real estate against the Citizens' Bank of Louisiana, in the parish of Orleans, what the amount of taxes are, and what amount of payments have been made by the Citi-
303 zens' Bank of Louisiana upon said assessments?

Objection.—Mr. Miller, counsel for the Citizens' Bank, makes the same objection as heretofore made.

A. In 1892 the Citizens' bank was assessed for forty-eight thousand three hundred dollars on real estate.

Q. This statement marked "X," offered in evidence by the city of New Orleans, contains a list of assessments for the years therein mentioned for real estate in the parish of Orleans against the Citizens' Bank of Louisiana, showing the amount of taxes due according to said assessment and the amount actually paid and the dates of payment by the said Citizens' Bank of Louisiana?

A. Yes, sir; except the year 1888, where the amount of $27.77 was reduced by judgment of the second city court.

Q. If the property was assessed in any other name but that of the Citizens' bank would it appear on this statement?

A. No, sir.

Q. I understand that according to the books of the treasury department of the city of New Orleans that this statement represents the assessment against the Citizens' bank and the payments made by the Citizens' bank?

A. Yes, sir.

Cross-examination by Mr. MILLER:

Q. Mr. Blackmar, of course, your knowledge upon this subject was derived altogether from the books?

A. Entirely.

Q. Who made the payments?

A. The individual who made them I can't say.

Q. Do the books show who made the payments?

A. No, sir; they do not.

Q. Now, Mr. Blackmar, the assessment of forty-eight thou-
304 sand three hundred dollars for 1892 which appears on the statement—the statement, as I understand it, exhibits the assessments on real estate?

A. Yes, sir; it does.

Q. And on various pieces of real estate?

A. Yes, sir.

Q. And the assessment as exhibited in this paper for the year 1891 appears to have been eighteen thousand seven hundred and fifty dollars?

A. Yes, sir; that is, on various pieces of real estate.

Q. And for the year 1890 the assessment is twenty-six thousand and fifty dollars ($26,050.00)?

A. Yes, sir.

Q. They are all the assessments upon various pieces of real estate for the years for which they respectively appear on the paper?

A. Yes, sir.

Q. An enumeration of these various pieces of property would be tedious?

A. Yes; and it would involve a very large amount of work.

By Mr. RENSHAW:

Q. Did you- research show whether the Citizens' bank had paid taxes on assessments prior to 1880?

A. Yes, sir; I went back to 1875, but I did not make a statement. I can state that they paid a large amount of taxes on real estate for years back.

Objection.—Mr. Miller, counsel for the Citizens' Bank, objects on the ground that the defendant refers to assessments prior to the year 1881, and on the further ground that the testimony is secondary evidence and not even exhibited by the memorandum from the books.

305 By Mr. MILLER:

Q. Can you give any reason from the books why it is that in 1882 as well as in other years there seem to be numerous payments on these assessments—why they were not paid at one time?

A. I cannot. There have been individuals and corporations who owned large amounts of real estate and other assessable property, and who found it to their advantage not to pay all their taxes at one time, and only to pay such an amount as would content the tax-collector, and later on to appeal to the council of the city of New Orleans and get a reduction and make quite a profitable business out of it. This was done in past years.

By Mr. MILLER:

Q. I suppose your research has been sufficient to make the statement that the Citizens' bank has never been assessed upon its banking building and its stock—capital?

A. I can make the statement that it has been assessed on its banking building.

Q. For what years?

A. I don't know.

Q. How do you know that it had been assessed on its banking building?

A. Because when I first started on this matter and going to the assessment-rolls to get the individual pieces I would find the banking building assessed among other pieces of real estate.

Q. Does the banking building figure at all in this statement—this statement that you have furnished?

A. Yes, sir.

Q. Please indicate where it figures.

306 A. In what years, you mean?

Q. Yes, sir.

A. That I can't do. It would take further examination, but it is contained in this statement.

Q. If it is contained in this statement as you state, and it is a fact, why can't you state the particular years in which it was assessed?

A. I can't because I have not particularized each piece.

Q. Can you state how many years, about—one, two, or three?

A. More than one year, to my recollection.

Q. More than two years?

A. I won't state any more than that because, as I have not particularized any of the other pieces, I cannot particularize this.

Q. Well, now, in these various payments enumerated in this paper marked "X," Mr. Blackmar, are there any payments that have been made on the banking building?

A. I can state that payments were made apparently in years past upon the entire bill, but I can't state whether they were made on the banking building.

Q. It might not have been made upon the banking building at all? It might have boen upon the properties?

A. I can't state.

Q. Now, Mr. Blackmar, in your examination have you found any assessment against the capital stock of the bank?

A. Well, I only confined my examination to real estate. I can state that it has been assessed against the shareholders.

Q. When were there any assessments against the shareholders?

A. I can't individualize the years.

Q. Can you state whether it was in any other year than the year 1892?

A. Yes, sir.

307 Q. What year?

A. I can't state the year.

Q. How, then, can you state that in any other year except the year 1892 there was any assessment against the shareholders?

A. Because I have seen it.

Q. Where have you seen it?

A. I can't state. I am taxing my memory, but I have seen it previous to 1892.

Q. So, then, your memory don't serve you sufficiently to make any statement about the assessment on the shares?

A. No, sir.

Document Referred to in said Depositions of Schenck and Blackmar, Marked "X." Statement of Taxes Paid by Citizens' Bank of La. upon Real Estate.

Office of treasurer, city of New Orleans.

Chas. H. Schenck, treasurer.

NEW ORLEANS, *June 5th*, 1893.

Statement of Taxes Paid by Citizens' Bank of La. upon Real Estate from 1880 to 1892, Inclusive.

1892. Bill 375, real estate; assess'nt, $48,300; tax, $975.66.

By payments on ac. July 27, '92.....	20 20	
Aug. 4, '92.....	30 30	
Aug. 17, '92.....	343 40	
Jan'y 13, '93.....	50 50	
Feb'y 20, '93.....	20 20	
May 6, '93.....	121 20	
		585 80

308

1891. Bill 712, real estate; assess'nt, 18,750; tax, $378.75.

By payments on ac. July 9, '91.....	30 30	
" 27, '91.....	14 14	
Aug. 14, '91.....	24 34	
Sept. 9, '91.....	249 47	
Dec. 8, '91.	50 50	
Bal. Feb'y 4, '92.....	10 10	
		378 75
		378 75

1890. Bill 1197, real estate; assess'nt, $26,050; tax, 526.21.

By payments on ac. Aug. 26, '90.....	495 91	
" 2, '90..	30 30	
	526 21	
Less returned Aug. 27, '90.....	88 88	
	437 33	
Bal. Nov. 25, '90	88 88	
		526 21

1889. Bill 1713, real estate; assess'nt, $26,000; tax, 525.20.

By payments on ac. Sept. 9, '89	404 00	
Oct. 2, '89	56 56	
" 19, '89	24 24	
Feb'y 20, '90..... .	40 40	
		525 20

1888. Bill 110, real estate; assess'nt, $41,300; tax, 834.26.

By payments on ac. Aug. 2, '88.....	379 76	
" 29, '88.....	16 16	
Sept. 10, '88.....	53 03	
Feb'y 8, '89...	202 00	
By reduction judg'nt 2nd C. C.....	27 77	
Nov. 27, '89.....	24 24	
Dec. 26, '89.....	60 60	
Bal. March 13, '90.....	70 70	
		834 26

309

1887. Bill 112, real estate; assess'nt, $40,700; tax, $862.54

By payments on ac. July 5, '87.....	171 70	
July 12, '87.....	363 60	
" 22, '87.....	101 00	
Nov. 27, '89.....	24 24	
Dec. 24, '90.....	50 50	
Bal. " "	151 50	
		862 54

1886. Bill 112, real estate; assess'nt, $115,200; tax, $2,327.04.

By payments on ac.	Sep. 2, '86	171 70	
	May 4, '87	101 00	
	May 25, '87	36 36	
	July 13, '87	181 80	
	Nov. 27, '89	18 18	
			509 04

1885. Bill 119, real estate; assess'nt, $120,700; tax, $3,065.78.

By payments on ac.	Sept. 25, '85	177 80	
	" 15, '85	254 00	
	June 16, '86	50 80	
	May 25, '87	45 72	
	July 13, '87	355 60	
			883 92

1884. Bill 113, real estate; assess'nt, $122,200; tax, $2,444.

By payments on ac.	Sept. 1, '84	20 00	
	Dec. 8, '84	128 00	
	Jan'y 28, '85	140 00	
	M'ch 3, '85	180 00	
	July 11, '85	40 00	
	May 25, '87	36 00	
	July 13, '87	170 00	
			714 —

310

1883. Bill 116, real estate; assess'nt, $181,850; tax, $3,637.00.

By payments on ac.	Aug. 3, '83	1,320 —	
	" 8, '83	64 00	
	" 15, '83	31 00	
	" 16, '83	60 00	
	" 22, '83	128 00	
	" 23, '83	100 00	
	" 25, '83	140 00	
	" 27, '83	24 00	
	" 30, '83	40 00	
	Sept. 27, '83	50 00	
	Oct. 16, '83	40 00	
	Nov. 8, '83	110 00	
			2,107 —

1882. Bill 106, real estate; assess'nt, $225,800; tax, $7,169.15.

By payments on ac.	Nov. 27, '82	25 40	
	" 30, '83	53 98	
	Feb'y 16, '84	31 75	
	M'ch 24, '86	57 15	
	Aug. 31, '82	111 13	
	Sep. 12, '82	38 10	
	Aug. 22, '82	142 88	

	By payment on ac. July 29, '82.....	95 25	
	" 26, '82.....	79 38	
	" 22, '82.....	38 10	
	" "	101 60	
	" 6, '82.....	47 63	
	June 2, '82.....	57 15	
	May 17, '82.....	22 23	
	" 16, '82.....	95 25	
	" 13, '82...	69 85	
	" 24, '82...	25 40	
311	May 11, '82...	95 25	
	" 10, '82.....	79 38	
	April 14, '82.....	29 84	
	" 13, '82.....	31 75	
	" 11, '82.....	2,143 13	
	" 1, '82.....	31 75	
	March 30, '82... ...	1,619 25	
	" 29, '82.....	31 75	
	" "	63 50	
	" 17, '82.....	1,597 03	
	May 9, '82.....	65 41	
	Dec. 29, '82.....	158 75	
	Jan'y 11, '90.....	47 63	
			$7,086 60

1881. Bill 106, real estate; assess'nt, $210,300; tax, $3,751.75.

	By payments on ac. M'ch 17, '81.....	3,730 34	
	Bal. in full M'ch 30, '81.....	.....	3,751 75

1880. Bill 111, real estate; assess'nt, $205,600; tax. $3,743.97.

	By payments on ac. June 8, '80....	639 42	
	June 8, '80.....	2,988 00	
	Dec. 28, '80.....	9 00	
	" "	1 93	
	May 9, '81.....	87 00	
	May 9, '91.....	19 26	
			3,744 61

(Signed) CHAS. H. SCHENCK, *Treas.*

Deposition of Charles H. Schenck, Marked D. Y.[2]

United States Circuit Court, Eastern District of Louisiana.

312 THE CITIZENS' BANK OF LOUISIANA *vs.* THE BOARD OF ASSESSORS *et als.* } No. 12112.

CHARLES H. SCHENCK, called in behalf of the city of New Orleans, says:

I am the treasurer of the city of New Orleans. I have examined the assessment-rolls and the tax-rolls and also the ledger, known as the register, of the city treasury of the city of New Orleans for the

years 1878 and 1879. I find that the assessment upon real estate in the city of New Orleans against the Citizens' Bank of Louisiana for the year 1878 was $207,800.00, and that the tax, based upon such assessment, was $3,117.00, and that said tax was paid in full in the name of the said bank on January 18th, 1878.

I also find that in 1879 the assessment against the Citizens' Bank of Louisiana upon real estate in the city of New Orleans was $224,900.00, and that the tax, based upon this assessment, — $3,373.50, and that said tax was paid in full in the name of the said bank by payments as follows, namely: On March 17th, 1879, $3,264.00, and on September 17th, 1879, $109.50.

Deposition of A. E. Blackmar, Marked "D. Z.[2]"

United States Circuit Court, Eastern District of Louisiana.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS *et als.*
No. 12112.

A. E. BLACKMAR, called in behalf of the city of New Orleans, says:

I am research clerk in the back-tax department of the
313 treasurer's office of the city of Louisiana.

I have examined the assessment-rolls and the tax-rolls for the years 1878 and 1879, and find that assessments have been made upon real estate in the city of New Orleans against the Citizens' Bank of Louisiana for these years as follows:

I find that in 1878 said bank was assessed upon real estate in the city of New Orleans for $207,800.00; that the tax, based upon that assessment, was $3,117.00, and that said tax was paid in full on the 18th of January, 1878.

And that the assessment against the said bank on real estate in the city of New Orleans in 1879 was $224,900.00, and the tax, based upon this assessment, was $3,373.50, and was paid in full by payments of $3,264.00 upon March 17th, 1879, and $109.50 upon September 27th, 1879, making payment in full.

Cross-examination:

The property at the corner of Royal & Custom-house, occupied by the band as its office and banking building in the years 1878 and 1879, does not appear in the above statement of real estate assessed against the bank for the years 1878 and 1879.

(Signed) A. E. BLACKMAR.

Evidence Offered by the State Tax-collectors for the Parish of Orleans and Other Parishes in the State of Louisiana.

Affidavit of J. H. Slaughter, sheriff and tax-collector, parish of East Baton Rouge, marked "T. C.1"

STATE OF LOUISIANA, }
Parish of East Baton Rouge. }

BATON ROUGE, *March* 10, 1893.

I, J. H. Slaughter, sheriff and *ex officio* tax-collector in and
314 for the parish of East Baton Rouge, State of Louisiana, do hereby certify—

That the assessment-rolls on file in my office for the years 1880 to 1892 (inclusive) show the assessment of property for each of said years to the Citizens' Bank of Louisiana.

That the taxes assessed against said Citizens' Bank of Louisiana have been regularly paid without objection or contest for each and all of said years, as shown by the said assessment-rolls on file and of public record in my office.

(Signed) J. H. SLAUGHTER,
Sheriff & ex Officio Tax collector, Parish of East Baton Rouge.

Sworn to and subscribed before me this 10th day of March, 1893.
[SEAL.] (Signed) J. T. YOUNG, *Clerk.*

Letter from A. A. Lelong to J. H. Slaughter, Sheriff, &c., Marked T. C.2

Citizens' Bank of Louisiana, banking department.

NEW ORLEANS, *Dec. 6th*, 1889.

Mr. J. H. Slaughter, sheriff & tax-collector, parish of East Baton Rouge, Baton Rouge.

DEAR SIR: Draw on the bank for the taxes on real estate owned by this bank in your parish, as follows:

"Reddin Brown"	$12 90
"W. Noble"	24
"M. L. Beauchamp"	12 20
	$56 10

with separate receipts for each property, and draft will be paid.

Yours truly,
(Signed) A. A. LELONG,
Act'g Cashier.

315 *Letter from A. A. Lelong to J. H. Slaughter, Sheriff, &c., Marked T. C. 3.*

Citizens' Bank of Louisiana, banking department.

NEW ORLEANS, *Nov. 29th*, 1890.

Mr. J. H. Slaughter, sheriff, Baton Rouge.

DEAR SIR: We desire to pay this year's taxes on the bank's property located in your parish and formerly owned by "Reddin Brown"

and "Wm. Noble." Please draw upon the bank, with tax receipts attached, and oblige,

Yours truly,

(Signed) A. A. LELONG,
Act'g Cashier.

Letter from A. A. Lelong to J. H. Slaughter, Sheriff, Marked T. C. 4.

Citizens' Bank of Louisiana, banking department.

NEW ORLEANS, *Dec.* 3, 1890.

J. H. Slaughter, sheriff, Baton Rouge.

DEAR SIR: Your postal card received. Will you please send me a memo. of taxes, year 1890, due on property formerly owned by—

Reddin Brown	4 80	
	8 00	
		12 80
& Wm. Noble	9 00	
	15 00	
		24 00

now assessed to the Citizens' B'k of La., and I will send you check for same.

Yours truly,

(Signed) A. A. LELONG,
Act'g Cashier.

Beauchamp	7 20	
	12 00	
		19 20
	$19 20	56 00
Not		10
		$56 10

316 *Letter from A. A. Lelong to J. H. Slaughter, Sheriff, Marked T. C. 5.*

Citizens' Bank of Louisiana, banking department.

NEW ORLEANS, *Dec.* 9, 1890.

Mr. J. H. Slaughter, sheriff, Baton Rouge.

DEAR SIR: I enclose check for $36.90, being for taxes year 1890 on real estate owned by this bank in your parish. Please send receipts & oblige,

Yours truly,

(Signed) A. A. LELONG,
Act'g Cashier.

Affidavit of A. A. Browne, Sheriff & Tax-collector, Parish of Iberville, Marked T. C. 6.

STATE OF LOUISIANA, }
Parish of Iberville. }

Before the undersigned, a notary public, duly commissioned and qualified, in and for and residing in the parish of Iberville, personally appeared Andrew Alfred Browne, Esq., sheriff of the parish of Iberville and *ex officio* collector of State and parish taxes in and for said parish, who, after having been by me first duly sworn according to law, deposes and says—

That he has carefully examined all the taxes-rolls deposited and filed in his office, and that from and including the rolls of the year 1880 to and including those of the year 1891 it appears that all taxes assessed against the property of the Citizens' Bank of Louisiana have been fully paid and satisfied by said bank for each of the years 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887,
317 1888, 1889, 1890, and 1891.

(Signed) A. A. BROWNE,
Sheriff & Tax-coll., Iberville P'sh.

Sworn and subscribed to before me this 10th M'ch, 1893.
[SEAL.] (Signed) LOUIS LOZANO,
Not. Public.

Affidavit of P. E. Lorio, Sheriff & Tax-collector, Parish of Lafourche, Marked T. C. 7.

STATE OF LOUISIANA, }
Parish of Lafourche. }

THIBODEAUX, LA., *April 11th*, 1893.

I, Pierre Ernest Lorio, the undersigned, sheriff and *ex officio* tax-collector, duly elected, qualified, and sworn, in and for the parish of Lafourche, State of Louisiana aforesaid, therein residing, do hereby certify that the only property which was assessed in this parish in the name of the Citizens' Bank of Louisiana from 1880 to 1892, inclusive, *are* the following-described property, to wit: No. 2147 on the assessment-roll for the year 1884 only—"the Green Wood plantation (late Tricou)," assessed for $14,150.00; amount of taxes for that year, 205.17, and paid by the Citizens' Bank of La., and on Nov. 11th, '84, the said property was sold to E. Roger, who is still the owner since the above date.

No. 3135 on the assessment-roll for the year 1892 only—"Citizens' Bank of La. (swamp land), late Tete," and was immediately transferred to Mrs. A. F. Tete *and* her assuming taxes for said year 1892.

In faith whereof witness my hand officially, at Thibodeaux, Lafourche, this 11th day of April, 1893.

(Signed) P. E. LORIO,
Sh'ff Lafourche.

318 *Affidavit of C. V. Thibaut, Sheriff & Tax-collector, Parish of Plaquemine, Marked T. C. 8.*

STATE OF LOUISIANA,
Parish of Plaquemine.

POINTE À LA HACHE, *March 10th*, 1893.

I, the undersigned sheriff and *ex officio* tax-collector in and for the parish of Plaquemine, State of Louisiana, do hereby certify that the Citizens' Bank of Louisiana has paid its taxes from the year 1880 up to and including the year 1891, without objection to the assessment and collection of taxes on its property, excepting as to the valuation of the property.

I further certify that I have examined the tax-rolls in my possession and they show the assessment and collection of taxes on property in the name of the Citizens' Bank of Louisiana from the year 1880 up to and including the year 1891 and the assessment of 1892, which is the only tax they have refused to pay.

(Signed) C. V. THIBAUT,
Sheriff & ex Officio Tax-collector.

Sworn to and subscribed before me at Pointe à la Hache this 10th day of March, A. D. 1893.

[SEAL.] (Signed) E. BENTER, *Cl'k.*

Affidavit of Marc Cognovich, Assessor of Parish of Plaquemine, Marked T. C. 9.

STATE OF LOUISIANA,
Parish of Plaquemine.

I, Marc Cognovich, do solemnly swear that I am the duly qualified assessor in and for the parish of Plaquemine, State of Louisiana; that I have been assessor since the year 1889, and that I have assessed the property of the Citizens' Bank of Lou-
319 isiana situated in this parish, and that there never was any objections to the assessment of its property during that period, except as to its valuation, through E. H. Lombard, Esq., agent of said bank, and except as to the assessment of 1892, after said assessment was made and filed.

(Signed) MARC COGNOVICH, *Assessor.*

Sworn to and subscribed before me this 15th day of March, A. D. 1893.

[SEAL.] (Signed) JNO. C. DE ARMAS, *Not. Pub.*

Certificate of F. S. Hingle, Secretary Police Jury, Parish of Plaquemine, Marked T. C. 10.

STATE OF LOUISIANA,
Parish of Plaquemine.

APRIL 13TH, 1893.

I, the undersigned secretary of the police jury in and for the parish of Plaquemine, do hereby certify that the following extract is from the minutes of the police jury of July 6th, 1891; that the Fanny plantation, the property of the Citizens' bank, situated in this parish, was reduced from an assessment of fifteen thousand dollars to thirteen thousand dollars, as per sworn statements as appears from the minutes of the police jury now in my possession.

(Signed) F. S. HINGLE,
Secretary of Police Jury, Parish of Plaquemine.

Affidavit of Leonard Arroyo, ex-Assessor Parish of Plaquemine, marked T. C. 11.

STATE OF LOUISIANA,
Parish of Plaquemine.

320 I, Leonard Arroyo, do solemnly swear that I was assessor in and for the parish of Plaquemine, State of Louisiana, from the year 1880 to the year 1888, both inclusive; that during that period I assessed the properties belonging to the Citizens' Bank of Louisiana situated in this parish, and that there was no objection made by the said bank to said assessments excepting as to the valuation of said properties, through its agent, E. H. Lombard, Esq.

(Signed) LEONARD ARROYO, *Ex-Assessor.*

Sworn to and subscribed before me this 15th day of March, A. D. 1893.

[SEAL.] (Signed) JNO. C. DE ARMAS, *Not. Pub.*

321 White. Parish of Plaquemine.

Mr. Citizens' Bank, Post-office, N. O., Ward 2d, 1891.

"The assessor in assessing lands and lots shall take into consideration the enhanced value of the same arising from the buildings and improvements thereon."

	Valuation.	Description of lands, lots, live animals, machinery, vehicles, credits, franchises, building material, and other property subject to taxation.
Cash value of lands, 44 x 40	$12,000	Ab. J. Doyle, Bel, Belair Co.
Cash value in lots, squares, or parcel- of lots in incorporated or unincorporated cities, towns, or villages, with residences or other improvements thereon		
Number and cash value of horses, mares, mules, geldings, cattle, sheep, hogs, and other live animals		
Cash value of wagons, carts, buggies, carriages, and other vehicles		
Cash value of merchandise or stock on hand		
Cash value, to be based on actual market value of capital stock, shares, &c., of all persons, associations of persons, business firms, corporations, and pools, less than real estate		
Cash value of household goods, silver plate, jewelry, &c., not exempt from taxation		
All monies loaned or in possession		
Cash value of all bonds liable to taxation, notes, judgments, and other credits		
Cash value of all steamboats, steamships, barges, and other water crafts		
Cash value of annuities, salaries, incomes, &c., of all persons, associations of persons, or business firms and corporations not subject to license		
Cash value of all other property subject to taxation		
Total assessment	$12,000	

Consolidated Agricultural Statistics.

Number of acres:

Uncultivated .....

Cultivated .....

Total .....

In cultivation last year:

In cane .....

In cotton .....

In rice .....

In corn .....
In oats.....
In wheat.....
In hay.....
In potatoes .....
In sorghum .....
In rye .....
In jute.....
In meadow or pasture.....

Total .....

Products raised last year:
Barrels molasses .....
Hogsheads of sugar.....
Barrels of sugar.....
Bales of cotton .....
Barrels of rice .....
Bushels of corn.....
Bushels of oats.....
Bushels of wheat.....
Bales of hay.....
Bales of jute .....
Bushels of rye .....
Bushels of potatoes .....
Barrels of sorghum.....

Total .....

White Children Between Six and Eighteen Years.

Males.....
Females.....

Total .....

Colored Children Between Six and Eighteen Years.

Males.....
Females.....

Total .....

322 *Plaquemine.*

Assessment-list of M-. Citizen's Bank.

T. C. 12.

I, whose post-office is N. O., do solemnly swear or affirm that the list on the reverse side of this paper, which I have signed, is a correct and complete list of all the property of which I am owner or have in my possession or under my control, in the capacity set forth

in said list, situated in the parish of Plaquemine, of every kind, character, and description, which is subject to taxation under the constitution of the State of Louisiana and under section 1 of the act of the General Assembly, entitled An act to provide an annual revenue and taxation for the State of Louisiana, etc., adopted at the regular session of 1890, which section is printed in full on this page; and, further, that the number of acres of land has been stated, and I have given the proper description of said lands and all other taxable property as the law requires, so help me God.

(Signed) EDW. H. LOMBARD, *Ag't.*

Sworn to and subscribed before me this 6th day of July, A. D. 1891.

(Signed) M. COGNEVICH, *Assessor.*

Act 106 of 1890.

SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, That act No. 85 of 1888 be amended by striking out its title, by inserting in lieu thereof the above title, by striking out sections 1 to 33 inclusive, by inserting this section 1 and the following new sections down to 33 inclusive, and by amending and re-enacting sections 54, 56, 57 and 61, as follows: That for the calendar year, A. D., one thousand eight hundred and ninety-one (1891), and for each succeeding calendar year, there are hereby levied annual taxes amounting in the aggregate to six mills on the dollar of the assessed valuation of all property situated within the State of Louisiana, except such as is expressly exempted from taxation by law, and the term property as herein used means and includes all real estate, with the buildings and all other improvements thereon or thereto attached, and all other untaxed land; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatever name or description used or designed to be used, either exclusively or partially, in navigating any of the waters within or bordering on this State, whether such vessel, ship, or boat shall be within the jurisdiction of this State or elsewhere, and whether the same shall have been enrolled, registered, or licensed at any collector's office or within any collector's district in this State or not, including all vessels under a foreign flag, navigating any of the waters of this State, within or bordering thereon, controlled or run in whole or in part for the benefit of the person to be assessed, together with their stores or appurtenances at their fair market value, or belonging to any person, company, association or corporation in or out of this State, and not paying taxes at the domicile of the said company, person, association or corporation; all railroads and other roads, all canals and other ways of communication, travel, or transportation; all locomotives, dummies, and other motive powers; all engines, boilers, and other apparatus, appurtenances, appliances, and attachments for steam, electric and other engines; all telephone and telegraph lines; all machines and machinery; all cars, carriages, wagon- or other vehicles; all patents, copyrights, trademarks, privileges, charters and franchises, including stock of any

lottery charter or privilege domiciled in or out of this State, unless exempted by the constitution of this State; all lumber, brick and other building materials; all movable property and chattels; all personal property; all goods, wares and merchandise, and other stock in trade, in possession, on hand and under control, goods bought and paid for, goods bought and to be paid for, all goods on consignment for sale, without reference to whom they belong; goods in transit for forwarding, not on consignment for sale are not to be assessed; all alcoholic, vinous and malt liquors; all household, kitchen and other furniture exceeding five hundred dollars ($500) in value; all jewels and jewelry, diamonds, pearls and precious stones, real or imitation, all gold and silverware and silverplate, paintings, engravings, statuary and other works of art, bric-a-brac, and all "articles of virtu" and ornament; all horses and other live animals; all personal property held in trust, or by a wife, or for a minor child, all property held, controlled, or administered in each separate capacity as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager, sequestrator, receiver, trustee, stake-holder, depository, warehouseman, keeper, curator, tutor, executor, administrator, legatee, heir, beneficiary, father, agent, attorney, usufructuary, mandatory, fiduciary, or official capacity; the cash value of all judgments, suits and causes in action; all rights, credits, bonds, and securities of all kinds, promissory notes, open accounts, and other obligations; all cash. The amount of cash on hand will not be offset or lessened because money is owed, or by liabilities of any kind, but must represent the full amount standing in the name of the person to be assessed or subject to his control. All coins, United States and foreign, whether current or uncurrent; all currencies, bank notes, and other paper moneys, all moneys loaned at interest, all shares, of stock in all banking companies or associations incorporated or non-incorporated, chartered under the laws of Louisiana, or under the laws of any other State than Louisiana, or under the laws of the National Government; and all other articles and things whatever possessing any money value. This enumeration shall not be construed so as to exempt from taxation any property or values not enumerated herein; provided, that no articles or things herein above enumerated shall be assessed more than once the same year. The above enumeration of assessable property is in nowise intended to apply to the assets of banking companies or associations whose shares of stock are assessable in lieu thereof under section 27, save in so far as declared in said section 27.

SECTION 207. The following property shall be exempt from taxation, and no other, viz: All public property, places of religious worship or burial, all charitable institutions, all buildings and property used exclusively for colleges or other school purposes, the real and personal estate of any public library and that of any other literary association used by or connected with such library, all books and philosophical apparatus and all paintings, and statuary of any company or association kept in a public hall; provided, the property so exempted be not used or leased for purposes of private or

corporate profit or income. There shall also be exempt from taxation household property to the value of five hundred dollars. There shall also be exempt from taxation and license, for a period of twenty years from the adoption of the constitution of 1879, the capital, machinery and other property employed in the manufacture of textile fabrics, leather, shoes, harness, saddlery, hats, flour, machinery, agricultural implements, manufacture of ice, fertilizers and chemicals, and furniture, and other articles of wood, marble or stone, soap, stationery, ink and paper, boat-building and chocolate; provided, that not less than five hands are employed in any one factory.

SECTION 13. Be it further enacted, etc., That it shall be the duty of each tax-payer, parish of Orleans excepted, to fill out a list of his property in accordance with the form provided in section 16 of this act; and he shall make oath thereto before the tax-assessor, or any officer, authorized by the law to administer oaths, and return the same to the assessor before the first day of May of each and every year.

SECTION 19. Be it further enacted, etc., That all real and personal property subject to taxation, as enumerated in section 1 of this act, and not exempted by law, shall be estimated by the assessors of the several parishes of the State, parish of Orleans excepted, at its actual cash value upon the blank lists furnished by the auditor of dublic accounts, in accordance with this act; and in case the valuations so made by the said assessor are, in the opinion and belief of the tax-payer, in excess of and beyond the cash value of the personal or real property, the said assessor shall make or cause to be made a duplicate list of said property, and shall then and there administer to the said tax-payer the oath or affirmation as follows, viz: "I swear, or affirm, that the valuation affixed opposite each item of property in the foregoing list is the actual cash value thereof, according to the best of my knowledge, judgment, and belief, so help me God.

——— ———.

Sworn to and subscribed before me this — day of ———, A. D. 18—.

——— ———, *Assessor.*"

The assessor shall subscribe such duplicate lists and submit them to the board of reviewers as hereinafter provided for.

Act 113 of 1890.

SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of assessors throughout the State to ascertain in so far as practicable whether the persons whose property is assessed by them and whose name-figure on their assessment-rolls are white or colored, and to note such fact in their return, and affix mention thereof to each name figuring on their assessment-rolls as aforesaid.

323 *Copy of Newspaper, "The Plaquemines Protector," of Date July 18, 1891, Showing Official Minutes of Police Jury of the Parish of Plaquemines, Held July 6, 1891, Marked T. C. 13.*

(Extract.)

* * * * * * *

The following reductions were made after careful consideration of all sworn statements:

Fanny Plant, Citizens' bank, $15,000 to $13,000.
Barrois Bros., $1,375 to $1,000.
Drosin Dobard, $1,700 to $1,200.
Orange farm, Bradish Johnson, $60,000 to $52,000.
Belleview plan., Bradish Johnson, $10,000 to $9,000.
Prosper Gagnier, $1,200 to $1,000.
Concession, Geo. P. Anderton, $22,000 to $20,000.
Bellechasse, J. P. Kearney, $39,700 to $30,000.

The board, having carefully reviewed all the lists of assessments by wards alphabetically, and there being no further business before the board, on motion of Mr. Brophy the board resolved itself into regular police jury.

The reports of the synpics were read and adopted.

The sheriff submitted his report as follows:

* * * * * * *

324 *Affidavit of Wm. L. Langridge, Sheriff & Tax-collector, Parish of Jefferson, Marked T. C. 14.*

Office of William L. Langridge, sheriff and tax-collector, parish of Jefferson, P. O. box 40.

GRETNA, LA., *March* 23, 1893.

By research made this day on real estate in this parish designated as the "Union plantation, containing 24 arpents front on the Mississippi river by 40 arpents in depth, closing to 14 arpents; thence 40 arpents between parallel lines, bounded above by S. D. Gustine, below by J. A. Sillom," the State Lafourche levee district and parish taxes appear as follows, viz:

Year.	Name.	Assessment.	State tax.	Lafourche levee tax.	Parish tax.	Special judgment tax.	Acreage.	Remarks.
1880..		161 00	96 60	80 50	161 00	.....	.....	Paid.
1881..		161 00	96 60	80 50	161 00	.....	.....	" Dec. 20, '81.
1882..		172 00	103 20	86 00	172 00	.....	.....	" Dec. 16, '82.
1883..		172 00	103 20	86 00	172 00	60 20	.....	" Nov. 5, '83.
1884..		188 00	112 80	94 00	188 00	.....	.....	" Jan'y 10, '85.
1885..		171 00	102 60	85 50	171 00	.....	.....	" Dec. 23, '85.
1886..		161 00	96 60	80 50	161 00	.....	.....	" Dec. 30, '86.
1887..		160 00	96 00	80 00	160 00	.....	.....	" Dec. 1, '87.
1888..		16 00	96 00	80 00	160 00	.....	.....	" Nov. 13, '88.
1889..		160 00	96 00	120 00	160 00	.....	.....	" Dec. 7, '89.
1890..		160 00	96 00	160 00	128 00	.....	.....	" Dec. 9, '90.
1891..		120 00	72 00	120 00	96 00	.....	.....	" Jan'y 9, '92.
1892..	Citizens' Bank of La.	140 00	84 00	140 00	112 00	.....	30.15	Delinquent.

I hereby certify the above and foregoing to be a true and correct statement and extract as taken from the tax-rolls and tax
325 records on file and of record in this office.
(Signed) WM. L. LANGRIDGE, *Sheriff.*

Sworn to and subscribed before me this 24th March, 1893.
[SEAL.] (Signed) J. TELLALSAY,
Clerk 21 Jud. Dist. Court, Jefferson P'h, La.

Affidavit of Wm. L. Langridge, Sheriff & Tax-collector, Parish of Jefferson, Marked T. C. 15.

Office of William L. Langridge, sheriff and tax-collector, parish of Jefferson, P. O. box 40.

GRETNA, LA., *March 23d*, 1893.

By research made this day on real estate in this parish designated as "a tract of land fronting on Bayou Barataria, nearly opposite to Bayou Des Oies, having 20 arpents above and 18 arpents below the mouth of said Bayou Des Oies, extending back about 8 miles, containing 5,000 acres;" also a tract adjoining the above and measuring 5 arpents front on Bayou Ouacha, extending the whole depth of the island of Barayaria;" also another tract, 5 arpents front on the Bayou Ouacha by 20 arpents in depth, bounded on one side by the above-described land and on the other by lands formerly — Stephen Henderson; also another tract adjoining the plantation for-
326 merly belonging to Jonathan Davis, 28 arpents front on Bayou Ouacha; also another tract, 5 arpents front on Bayou Ouacha, extending to Lake Ouacha," the State Lafourche levee district and parish taxes appear as follows, viz:

Year.	Name.	Assessment.	State tax.	Lafourche levee tax.	Parish tax.	Special judgment tax.	Acreage.	Remarks.
1880..		140 00	84 00	70 00	140 00	.....	.....	Paid.
1881..		140 00	84 00	70 00	140 00	.....	.....	" Dec. 20, '81.
1882..		140 00	84 00	70 00	140 00	.....	.....	" Dec. 16, '82.
1883..		140 00	84 00	70 00	140 00	49 00	.....	" Nov. 5, '83.
1884..		70 00	42 00	35 00	70 00	.....	.....	" Jan'y 10, '85.
1885..		70 00	42 00	35 00	70 00	.....	.....	" Dec. 23, '85.
1886..		70 00	42 00	35 00	70 00	.....	.....	" Dec. 30, '86.
1887..		70 00	42 00	35 00	70 00	.....	.....	" Dec. 1, '87.
1888.		70 00	42 00	35 00	70 00	.....	.....	" Nov. 13, 88.
1889..		70 00	42 00	52 50	70 00	.....	.....	" Dec. 7, '89.
1890..		70 00	42 00	70 00	56 00	.....	.....	" Dec. 9, '90.
1891..		60 00	36 00	60 00	48 00	.....	.....	" Jan'y 9, '92.
1892..	Citizens' Bank of La.	70 00	42 00	70 00	56 00	.....	248.90	Delinquent.

I hereby certify the above and foregoing to be a true and correct statement and extract as taken from the tax-rolls and tax records on file and of record in this office.
(Signed) WM. L. LANGRIDGE, *Sheriff.*

Sworn to and subscribed before me this 24th March, 1893.

[SEAL.] (Signed) J. TELLALSAY,
Clerk 21 Jud. Dist. Court, Jefferson P'h, La.

327 *Letter of A. A. Lelong to Austin W. Rountree, Dated Nov. 29, 1890, Marked T. C. 16.*

Citizens' Bank of Louisiana, banking department.

NEW ORLEANS, *Nov.* 29, 1890.

Austin R. Roundtree, sheriff, Gretna, parish of Jefferson.

DEAR SIR: We desire to pay this year'- taxes on property owned by this bank in your parish. Will you please draw upon the bank with separate tax receipts attached?

Yours truly, (Signed) A. A. LELONG,
Act'g Cashier.

328 Mr. Citizens' Bank, Post Office, New Orleans, Ward —.

"The assessor in assessing lands and lots shall take into consideration the enhanced value of the same arising from the buildings and improvements thereon."

	Valuation.	Description of lands, lots, live animals, machinery, vehicles, credits, franchises, building material, and other property subject to taxation.
Cash value of lands	$10,000 00	Oakland plant (formerly Kenner).
Cash value in lots, squares, or parcel- of lots in incorporated or unincorporated cities, towns, or villages, with residences or other improvements thereon.	7,000 00 16,000 00	J. T. Oriard (formerly J. Davis). Union (formerly Dusan).
Number and cash value of horses, mares, mules, geldings, cattle, sheep, hogs, and other live animals		
Cash value of wagons, carts, buggies, carriages, and other vehicles		
Cash value of merchandise or stock on hand		
Cash value, to be based on actual market value of capital stock, shares, &c., of all persons, associations of persons, business firms, corporations, and pools, less than real estate		
Cash value of household goods, silver plate, jewelry, &c., not exempt from taxation		
All monies loaned or in possession		
Cash value of all bonds liable to taxation, notes, judgments, and other credits		
Cash value of all steamboats, steamships, barges, and other water crafts		
Cash value of annuities, salaries, incomes, &c., of all persons, associations of persons, or business firms and corporations not subject to license		
Cash value of all other property subject to taxation		
Total assessment	$33,000 00	

Consolidated Agricultural Statistics.

Number of acres:

Uncultivated .....
Cultivated .....

Total .....

In cultivation last year:

In cane .....
In cotton .....
In rice .....
In corn .....
In oats .....
In wheat .....
In hay .....
In potatoes .....
In sorghum .....
In rye .....
In jute .....
In meadow or pasture .....

Total .....

Products raised last year:

Barrels molasses .....
Hogsheads of sugar .....
Barrels of sugar .....
Bales of cotton .....
Barrels of rice .....
Bushels of corn .....
Bushels of oats .....
Bushels of wheat .....
Bales of hay .....
Bales of jute .....
Bushels of rye .....
Bushels of potatoes .....
Barrels of sorghum .....

White Children Between Six and Eighteen Years.

Males .....
Females .....

Total .....

Colored Children Between Six and Eighteen Years.

Males .....
Females .....

Total .....

329 *Assessment-list of M-. —.*

T. C. 17.

I, whose post-office is ——, do solemnly swear, or affirm that the list on the reverse side of this paper, which I have signed, is a correct and complete list of all the property of which I am owner or have in my possession or under my control, in the capacity set forth in said list, situated in the parish of ——, of every kind, character and description, which is subject to taxation under the constitution of the State of Louisiana, and under section 1 of the act of the General Assembly, entitled An act to provide an annual revenue and taxation for the State of Louisiana, etc., adopted at the regular session of 1890, which section is printed in full on this page; and further, that the number of acres of land has been stated, and I have given the proper description of said lands and all other taxable property as the law requires, so help me God.

CITIZENS' BANK OF LA.,
Per pro EDW. H. LOMBARD.

Sworn to and subscribed before me this the 3 day of June, A. D 1887.

(Signed) O. BESANCON, *Assessor.*

Act 10*y* of 1884.

SECTION 6. Be it further enacted, etc., That section first of the foregoing act be amended and re-enacted to read as follows: That for the calendar year anno Domini, eighteen hundred and eighty-four, and for each and — succeeding calendar year, there are hereby levied annual taxes, amounting in the aggregate to six mills on the dollar, of the assessed valuation of all property situated in the State of Louisiana, except such as is expressly exempted from taxation by the constitution, and the term property, as herein used, means and includes all real estate, with the buildings and other improvements thereon or thereto attached. all improvements upon public lands and other untaxed land; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatever name or description, used or designated to be used either exclusively or partially in navigating any of the waters within or bordering on this State, whether such vessel, ship or boat shall be within the jurisdiction of this State or elsewhere and whether the same shall have been enrolled, registered or licensed at any collector's office or within any collection district in this State or not, including all vessels sailing under a foreign flag, navigating any of the waters of this State, within or bordering thereon, controlled or run, in whole or in part, for the benefit of the person to be assessed, together with their stores or appurtenances at their fair market value, or belonging to any person, company, association or corporation in or out of this State, and not paying taxes at the domicile of the said company, person, association or corporation; all railroads and other roads, all canals and

other ways of communication, travel or transportation; all locomotives, dummies and other motive powers; all engines, boilers and other appurtenances, appliances and attachments for steam, electric and other engines; all telephone and telegraph lines, all machines and machinery; all cars, carriages, wagons and other vehicles; all patents, copyrights, trade-marks, privileges, charters and franchises, including stock of any lottery charter or privilege, domiciled in or out of this State, unless exempted by the constitution of the State; all lumber, brick, and other building material; all movable property and chattels; all personal property; all goods, wares and merchandise, and other stock in trade, in possession, on hand or under control; goods bought and paid for, goods bought and to be paid for, all goods on consignment for sale, without reference to whom they belong; goods in transit for forwarding, not on consignment for sale are not to be assessed; all alcoholic, vinous and malt liquors; all household, kitchen, and other furniture, exceeding five hundred ($500) dollars in value; all jewels and jewelry, diamonds, pearls and precious stones, real or imitation; all gold and silverware and silver plate, paintings, engravings, statuary and other works of art, bric-a-brac, and "articles of virtue," and ornaments; all horses, and other live animals; all personal property held in trust, or by a wife or for a minor child; all property held, controlled or administered in each separate capacity as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager, sequestrator, receiver, trustee, stakeholder, depository, warehouseman, keeper, curator, tutor, executor, administrator, legatee, heir, beneficiary, father, agent, attorney, usufructuary, mandatory, fiduciary, or official capacity; the cash value of all judgments, suits and causes in action, all rights, credits, bonds, stocks and securities of all kinds, promissory notes and other obligations; all cash on hand on the day upon which notice is served to make return of taxable property in conformity with this act, including checks, payable on that day and drafts and notes due at that date which have not been included as money at interest or debts due; also, all borrowed money or deposits in banks or elsewhere. The amount of cash on hand will not be offset or lessened because money is owed or by liabilities of any kind, but must represent the full amount standing in the name of the person to be assessed or subject to his control on the day above named. All coins, United States and foreign, whether current or uncurrent, all currencies bank notes and other paper money; all moneys loaned at interest, all shares of stock in all banking, insurance, manufacturing, and all other incorporated or non-incorporated companies chartered under the laws of Louisiana or under the laws of any other State than Louisiana, and all other articles and things whatever, possessing any money value. This enumeration shall not be construed so as to exempt from taxation any property or values not enumerated herein; provided, that no articles or things hereinabove enumerated shall be assessed more than once the same year.

330 Parish of Jefferson.

The Citizens' Bank of La., Mr. Thos. D. Miller, Post-office, —, Ward —, March 1st, 1886.

"The assessor in assessing lands and lots shall take into consideration the enhanced value of the same arising from the buildings and improvements thereon."

	Valuation.	Description of lands, lots, live animals, machinery, vehicles, credits, franchises, building material, and other property subject to taxation.
Cash value of lands:		
Oakland, "Kenner"	$12,500	Fourteen hundred & eighty-four acres; four hundred cleared, bal. swamp.
Union, "Dussuan"	15,000	Five thousand 700 arp'ts; 415 worthless.
Oriard, former "J. Davis"	6,000	Six thousand acres; $\frac{9}{10}$ swamp.
Cash value in lots, squares, or parcels of lots in incorporated or unincorporated cities, towns, or villages, with residences or other improvements thereon		
Number and cash value of horses, mares, mules, geldings, cattle, sheep, hogs, and other live animals		
Cash value of wagons, carts, buggies, carriages, and other vehicles		
Cash value of merchandise or stock on hand		
Cash value to be based on actual market value of capital stock, shares, &c., of all persons, associations of persons, business firms, corporations, and pools less than real estate		
Cash value of household goods, silver plate, jewelry, &c., not exempt from taxation		
All monies loaned or in possession		
Cash value of all bonds liable to taxation, notes, judgments, and other credits		
Cash value of all steamboats, steamships, barges, and other water crafts		
Cash value of annuities, salaries, incomes, &c., of all persons, associations of persons, or business firms and corporations not subject to license		
Cash value of all other property subject to taxation		
Total assessment	$33,500	

Consolidated Agricultural Statistics.

Number of acres:

Uncultivated .....

Cultivated .....

Total .....

In cultivation last year:

In cane .....
In cotton .....
In rice .....
In corn .....
In oats .....
In wheat .....
In hay .....
In potatoes .....
In sorghum .....
In rye .....
In jute .....
In meadow or pasture .....

Total .....

Products raised last year:

Barrels molasses .....
Hogsheads of sugar .....
Barrels of sugar .....
Bales of cotton .....
Barrels of rice .....
Bushels of corn .....
Bushels of oates .....
Bushels of wheat .....
Bales of hay .....
Bales of jute .....
Bushels of rye .....
Bushels of potatoes .....
Barrels of sorghum .....

Total .....

White Children Between Six and Eighteen Years.

Males .....
Females .....

Total .....

Colored Children Between Six and Eighteen Years.

Males .....
Females .....

Total .....

331 Assessment-list of Thos. D. Miller, president, parish of Jefferson.

T. C. 18.

I, whose post-office is N. O., do solemnly swear or affirm that the

list on the reverse side of this paper, which I have signed, is a correct and complete list of all the property of which I am owner or have in my possession or under my control, in the capacity set forth in said list, situated in the parish of Jefferson, of every kind, character, and description, which is subject to taxation under the constitution of the State of Louisiana and under section 1 of the act of the General Assembly, entitled An act to provide an annual revenue and taxation for the State of Louisiana, etc., adopted at the regular session of 1890, which section is printed in full on this page; and, further, that the number of acres of land has been stated, and I have given the proper description of said lands and all other taxable property as the law requires, so help me God.

(Signed) EDW. H. LOMBARD,
For Citizens' Bank.

Sworn to and subscribed before me this the — day of ——, A. D. 188–.

(Signed) ——— ———, *Assessor.*

Act 10*y* of 1884.

SECTION 6. Be it further enacted, etc., That section first of the foregoing act be amended and re-enacted to read as follows: That for the calendar year, anno Domini, eight hundred and eighty-four, and for each and succeeding calendar year, there are hereby levied annual taxes, amounting in the aggregate to six mills on the dollar of the assessed valuation, of all property situated in the State of Louisiana, except such as is expressly exempted from taxation by the constitution, and the term property, as herein used means and includes all real estate, with the buildings and other improvements thereon or thereto attached, all improvement upon public lands and other untaxed land; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatever name or description, used or designated to be used either exclusively, or partially in navigating any of the waters within or bordering on this State, whether such vessel, ship or boat shall be within the jurisdiction of this State or elsewhere and whether the same shall have been enrolled, registered or licensed at any collector's office or within any collection district in this State or not, including all vessels sailing under a foreign flag, navigating any of the waters of this State, within or bordering thereon, controlled or run, in whole or in part for the benefit of the person to be assessed, together with their stores or appurtenances at their fair market value, or belonging to any person, company, association or corporation in or out of this State, and not paying taxes at the domicile of the said company, person, association or corporation; all railroads and other roads, all canals and other ways of communication, travel or transportation; all locomotives, dummies, and other motive powers; all engines, boilers and other appurtenances, appliances and attachments for steam, electric and other engines; all telephone and telegraph lines; all machines and machinery; all cars, carriages, wagons and other vehicles; all patents, copyrights, trade-marks, priv-

ileges, charters and franchises, including stock of any lottery charter or privilege domiciled in or out of this State, unless exempted by the constitution of the State; all lumber, brick, and other building material; all movable property and chattels; all personal property; all goods, wares and merchandise, and other stock in trade, in possession, on hand or under control, goods bought and paid for, goods bought and to be paid for, all goods on consignment for sale, without reference to whom they belong; goods in transit for forwarding, not on consignment for sale are not to be assessed; all alcoholic, vinous and malt liquors; all household, kitchen, and other furniture exceeding five hundred ($500) dollars in value; all jewels and jewelry, diamonds, pearls and precious stones, real or imitation, all gold and silverware and silverplate, paintings, engravings, statuary and other works of art, bric-a-brac, and "articles of virtu" and ornament; all horses and other live animals; all personal property held in trust, or by a wife or for a minor child, all property held, controlled, or administered in each separate capacity as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager, sequestrator, receiver, trustee, stake-holder, depository, warehouseman, keeper, curator, tutor, executor, administrator, legatee, heir, beneficiary, father, agent, attorney, usufructuary, mandatory, fiduciary, or official capacity; the cash value of all judgments, suits and causes in action; all rights, credits, bonds, stocks and securities of all kinds, promissory notes, and other obligations; all cash on hand on the day upon which notice is served to make return of taxable property in conformity with this act, including checks, payable on that day and drafts and notes due at that date which have not been included as money at interest or debts due; also, all borrowed money or deposits in banks or elsewhere. The amount of cash on hand will not be offset or lessened because money is owed or by liabilities of any kind, but must represent the full amount standing in the name of the person to be assessed or subject to his control on the day above named. All coins, United States and foreign, whether current or uncurrent, all currencies, bank notes and other paper money; all moneys loaned at interest, all shares of stock in all banking insurance, manufacturing, and all other incorporated or non-incorporated companies chartered under the laws of Louisiana or under the laws of any other State than Louisiana, and all other articles and things whatever, possessing any money value. This enumeration shall not be construed so as to exempt from taxation any property or values not enumerated herein; provided, that no articles or things herein above enumerated shall be assessed more than once the same year.

332 Parish of Jefferson.

Mr. Citizens' Bank of La., Post-office, 136 Gravier St., N. O., Ward —, March —, 1885.

"The assessor in assessing lands and lots shall take into consideration the enhanced value of the same arising from the buildings and improvements thereon."

	Valuation.	Description of lands, lots, live animals, machinery, vehicles, credits, franchises, building material, and other property subject to taxation.
Cash value of lands	$18,000 00	Union place, formerly Charles Dussan, fronting on Miss. river, containing 1,520 arpents of land.
Cash value in lots, squares, or parcel- of lots in incorporated or unincorporated cities, towns, or villages, with residences or other improvements thereon.	7,000 00	The J. T. Oriard tract of land, situated on 1st island, fronting 50 arpents on Bayou Barataria.
	16,000 00	The Oakland plantation, situated on the left bank of the Miss. river, meting 20 arpents by 80 in depth, containing 1,600 arpents.
Cash value of horses, mares, mules, geldings, cattle, sheep, hogs, and other live animals.	600 00	Stock on Union plantation.
Cash value of wagons, carts, buggies, carriages, and other vehicles.	200 00	Vehicles on Union plantation.
Cash value of merchandise or stock on hand.		
Cash value, to be based on actual market value of capital stock, shares, &c., of all persons, associations of persons, business firms, corporations, and pools, less than real estate		
Cash value of household goods, silver plate, jewelry, &c., not exempt from taxation		
All monies loaned or in possession		
Cash value of all bonds liable to taxation, notes, judgments, and other credits		
Cash value of all steamboats, steamships, barges, and other water crafts		
Cash value of annuities, salaries, incomes, &c., of all persons, associations of persons, or business firms and corporations not subject to license		
Cash value of all other property subject to taxation		
Total assessment		

Consolidated Agricultural Statistics.

Number of acres:
Uncultivated ....
Cultivated ....

Total ....

In cultivation last year:
In cane ....
In cotton ....
In rice ....
In corn ....
In oats ....
In wheat ....
In hay ....
In potatoes ....
In sorghum ....
In rye ....
In jute ....
In meadow or pasture ....

Total ....

Products raised last year:
Barrels molasses ....
Hogsheads of sugar ....
Barrels of sugar ....
Bales of cotton ....
Barrels of rice ....
Bushels of corn ....
Bushels of oats ....
Bushels of wheat ....
Bales of hay ....
Bales of jute ....
Bushels of rye ....
Bushels of potatoes ....
Barrels of sorghum ....

Total ....

White Children Between Six and Eighteen Years.

Males ....
Females ....

Total ....

Colored Children Between Six and Eighteen Years.

Males .....
Females .....

Total .....

Total .....

333 Assessment-list of Mr. Citizens' Bank, parish of Jefferson.

T. C. 19.

I, whose post-office is ——, do solemnly swear or affirm that the list on the reverse side of this paper, which I have signed, is a correct and complete list of all the property of which I am owner or have in my possession or under my control, in the capacity set forth in said list, situated in the parish of Jefferson, of every kind, character, and description, which is subject to taxation under the constitution of the State of Louisiana, and under section 1 of the act of the General Assembly, entitled An act to provide an annual revenue and taxation for the State of Louisiana, etc., adopted at the regular session of 1890, which section is printed in full on this page; and, further, that the number of acres of land has been stated, and I have given the proper description of said lands and all other taxable property as the law requires, so help me God.

(Signed) EDW. H. LOMBARD.

Sworn to and subscribed before me this the 30th day of June, A. D. 1885.

(Signed) O. BESANCON, *Assessor.*

Act 10*y* of 1884.

SECTION 6. Be it further enacted, etc., That section first of the foregoing act be amended and re-enacted to read as follows: That for the calendar year anno Domini eighteen hundred and eighty-four, and for each and succeeding calendar year, there are hereby levied annual taxes amounting in the aggregate to six mills on the dollar, of the assessed valuation of all property situated in the State of Louisiana, except such as is expressly exempted from taxation by the constitution, and the term property, as herein used, means and includes all real estate, with the buildings and other improvements thereon or thereto attached, all improvements upon public lands and other untaxed land; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatever name or description, used or designated to be used either exclusively, or partially in navigating any of the waters within or bordering on this State, whether such vessel, ship or boat shall be within the jurisdiction of this State or elsewhere and whether the same shall have been enrolled, registered or licensed at any collector's office or within any collection district in this State

or not, including all vessels sailing under a foreign flag, navigating any of the waters of this State, within or bordering thereon, controlled or run, in whole or in part, for the benefit of the person to be assessed, together with their stores or appurtenances at their fair market value, or belonging to any person, company, association or corporation in or out of this State, and not paying taxes at the domicile of the said company, person, association or corporation; all railroads and other roads, all canals and other ways of communication, travel or transportation; all locomotives, dummies and other motive powers; all engines, boilers and other appurtenances, appliances and attachments for steam, electric and other engines; all telephone and telegraph lines, all machines and machinery; all cars, carriages, wagons and other vehicles; all patents, copyrights, trade-marks, privileges, charters and franchises, including stock of any lottery charter or privilege, domiciled in or out of this State, unless exempted by the constitution of the State; all lumber, brick, and other building material; all movable property and chattels; all personal property; all goods, wares and merchandise, and other stock in trade, in possession, on hand or under control; goods bought and paid for, goods bought and to be paid for, all goods on consignment for sale, without reference to whom they belong; goods in transit for forwarding, not on consignment for sale are not to be assessed; all alcoholic, vinous and malt liquors; all household, kitchen, and other furniture, exceeding five hundred ($500) dollars in value; all jewels and jewelry, diamonds, pearls and precious stones, real or imitation; all gold and silverware and silver plate, paintings, engravings, statuary and other works of art, bric-a-brac, and "articles of virtue," and ornaments; all horses, and other live animals; all personal property held in trust, or by a wife or for a minor child, all property held, controlled or administered in each separate capacity as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager sequestrator, receiver, trustee, stakeholder, depository, warehouseman, keeper, curator, tutor, executor, administrator, legatee, heir, beneficiary, father, agent, attorney, usufructuary, mandatory fiduciary, or official capacity; the cash value of all judgments, suits and causes in action, all rights, credits, bonds, stocks and securities of all kinds, promissory notes and other obligations; all cash on hand on the day upon which notice is served to make return of taxable property in conformity with this act, including checks, payable on that day and drafts and notes due at that date which have not been included as money at interest or debts due; also, all borrowed money or deposits in banks or elsewhere. The amount of cash on hand will not be offset or lessened because money is owed or by liabilities of any kind, but must represent the full amount standing in the name of the person to be assessed or subject to his control on the day above named. All coins, United States and foreign, whether current or uncurrent, all currencies bank notes and other paper money; all moneys loaned at interest, all shares of stock in all banking, insurance, manufacturing, and all other incorporated or non-incorporated companies chartered under the laws of Louisiana or under

the laws of any other State than Louisiana, and all other articles and things whatever, possessing any money value. This enumeration shall not be construed so as to exempt from taxation any property or values not enumerated herein; provided, that no articles or things hereinabove enumerated shall be assessed more than once the same year.

334 *Affidavit of A. W. Connelly, Sheriff & Tax-collector, Parish of Terrebonne, Marked T. C. 20.*

THE STATE OF LOUISIANA, }
Parish of Terrebonne. }

Before me, the undersigned authority, personally came and appeared Arthur W. Connelly, sheriff and *ex officio* tax-collector, duly qualified and sworn, in and for the parish of Terrebonne, who, being duly sworn, deposes and says that he has carefully examined assessments-rolls in his possession, and that he finds thereon property assessed in the year 1891 to and in the name of the Citizens' bank, said assessment aggregating to sum of $5,000.00, the taxes on which property, for State, parish, and levee district, amounted to sum of $139.25, which amount was paid by sight draft on Citizens' bank in favor of Whitney National Bank of N. O., December 15, 1891, said draft being drawn on said Citizens' bank at the request of A. A. Lelong, cashier of said Citizens' bank, as will appear by letter hereto attached.

(Signed) A. W. CONNELY,
Sheriff & Tax-collector.

Sworn to and subscribed before me, at Houma, La., March 10th, 1893.

[SEAL.] (Signed) A. BOURG,
Clerk of Court.

Letter of A. A. Lelong to O. Daspit, Marked T. C. 21.

Citizens' Bank of Louisiana.

BANKING DEPARTMENT,
NEW ORLEANS, *Dec.* 8, 1851.

Mr. O. Daspit, sheriff, Houma.

DEAR SIR: If you draw upon the bank for taxes, year 1891, on bank's property same will be paid, provided tax receipt is attached.

Yours truly,
(Signed) A. A. LELONG, *Cashier.*

Dec. 15, '91.

Drawn s. d. favor Whitney Nat'l b'k for $139.25, receipt attached.

335 White. Parish of Terrebonne, La.

Mr. Citizens' Bank of New Orleans, La., Post-office, New Orleans, La., Ward 5, 1892.

"The assessor in assessing lands and lots shall take into consideration the enhanced value of the same arising from the buildings and improvements thereon."

		Description of lands, lots, live animals, machinery, vehicles, credits, franchises, building material, and other property subject to taxation.
Cash value of lands	$4,000 00	A certain tract of land, with buildings, improvements, &c., situated on both banks descending Bayou Terrebonne, bounded above by T. P. Blanchard & *als.*, bounded below by Ellender Bros. & *als.*
Cash value in lots, squares, or parcel- of lots in incorporated or unincorporated cities, towns, or villages, with residences or other improvements thereon		
Number and cash value of horses, mares, mules, geldings, cattle, sheep, hogs, and other live animals		
Cash value of wagons, carts, buggies, carriages, and other vehicles		
Cash value of merchandise or stock on hand		
Cash value, to be based on actual market value of capital stock, shares, &c., of all persons, associations of persons, business firms, corporations, and pools, less than real estate		
Cash value of household goods, silver plate, jewelry, &c., not exempt from taxation		
All monies loaned or in possession		
Cash value of all bonds liable to taxation, notes, judgments, and other credits		
Cash value of all steamboats, steamships, barges, and other water crafts		
Cash value of annuities, salaries, incomes, &c., of all persons, associations of persons, or business firms and corporations not subject to license		
Cash value of all other property subject to taxation		
Total assessment	$4,000 00	

Consolidated Agricultural Statistics.

Number of acres:
Uncultivated.....
Cultivated.....

Total..... 370

Cultivation last year:
In cane.....
In cotton.....
In rice.....
In corn.....
In oats.....
In wheat.....
In hay.....
In potatoes.....
In sorghum.....
In rye.....
In jute.....
In meadow or pasture.....

Total.....

Products raised last year:
Barrels molasses.....
Hogsheads of sugar.....
Barrels of sugar.....
Bales of cotton.....
Barrels of rice.....
Bushels of corn.....
Bushels of oates.....
Bushels of wheat.....
Bales of hay.....
Bales of jute.....
Bushels of rye.....
Bushels of potatoes.....
Barrels of sorghum.....

Total.....

White Children Between Six and Eighteen Years.

Males.....
Females.....

Total.....

Colored Children Between Six and Eighteen Years.

Males.....
Females.....

Total.....

336 1892.

Assessment-list of M. Citizens' Bank of New Orleans, La., parish of ——.

T. C. 22.

I, whose post-office address is New Orleans, do solemnly swear or affirm that the list on the reverse side of this paper, which I have signed, is a correct and complete list of all the property of which I am owner or have in my possession or under my control, in the capacity set forth in said list, situated in the parish of Terrebonne, of every kind, character, and description, which is subject to taxation under the constitution of the State of Louisiana and under section 1 of the act of the General Assembly, entitled An act to provide an annual revenue and taxation for the State of Louisiana, etc., adopted at the regular session of 1890, which section is printed in full on this page; and, further, that the number of acres of land has been stated, and I have given the proper description of said land and all other taxable property as the law requires, so help me God.

CITIZENS' BANK OF LA.,
Pr. EDW. H. LOMBARD.

Sworn to and subscribed before me this 6th day of May, A. D. 1892.

(Signed) CLAUDE DUVAL, *Assessor.*

Act 106 of 1890.

SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, That act No. 85 of 1888 be amended by striking out its title, by inserting in lieu thereof the above title, by striking out sections 1 to 33 inclusive, by inserting this section 1 and the following new sections down to 33 inclusive, and by amending and re-enacting sections 54, 56, 57 and 61, as follows: That for the calendar year, A. D., one thousand eight hundred and ninety-one (1891), and for each succeeding calendar year, there are hereby levied annual taxes amounting in the aggregate to six mills on the dollar of the assessed valuation of all property situated within the State of Louisiana, except such as is expressly exempted from taxation by law, and the term property as herein used means and includes all real estate, with the buildings and all other improvements thereon or thereto attached, and all other untaxed land; every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat of whatever name or description used or designed to be used, either exclusively or partially, in navigating any of the waters within or bordering on this State, whether such vessel, ship, or boat, shall be within the jurisdiction of this State or elsewhere, and whether the same shall have been enrolled, registered, or licensed, at any collector's office, or within any collector's district in this State or not, including all vessels under a foreign flag, navigating any of the waters of this State, within or bordering thereon, controlled or run

in whole or in part for the benefit of the person to be assessed, together with their stores or appurtenances at their fair market value, or belonging to any person, company, association or corporation, in or out of this State, and not paying taxes at the domicile of the said company, person, association or corporation; all railroads, and other roads, all canals and other ways of communication, travel, or transportation, all locomotives dummies, and other motive powers; all engines, boilers, and other apparatus, appurtenances, appliances, and attachments for steam, electric, and other engines; all telephone and telegraph lines; all machines and machinery; all cars, carriages, wagons or other vehicles; all patents, copyrights, trademarks, privileges, charters and franchises, including stock of any lottery charter or privilege domiciled in or out of this State, unless exempted by the constitution of this State; all lumber, brick and other building materials; all movable property and chattels; all personal property; all goods, wares and merchandise, and other stock in trade, in possession, on hand and under control, goods bought and paid for, goods bought and to be paid for, all goods on consignment for sale, without reference to whom they belong; goods in transit for forwarding, not on consignment for sale are not to be assessed; all alcoholic, vinous and malt liquors; all household, kitchen and other furniture exceeding five hundred dollars ($500) in value; all jewels and jewelry, diamonds, pearls and precious stones, real or imitation, all gold and silverware and silverplate, paintings, engravings, statuary and other works of art, bric-a-brac, and all "articles of virtu" and ornament; all horses and other live animals; all personal property held in trust, or by a wife, or for a minor child, all property held, controlled, or administered in each separate capacity as president, cashier, treasurer, liquidator, assignee, master, superintendent, manager, sequestrator, receiver, trustee, stake-holder, depository, warehouseman, keeper, curator, tutor, executor, administrator, legatee, heir, beneficiary, father, agent, attorney, usufructuary, mandatory, fiduciary, or official capacity; the cash value of all judgments, suits and causes in action; all rights, credits, bonds, and securities of all kinds, promissory notes, open accounts, and other obligations; all cash. The amount of cash on hand will not be offset or lessened because money is owed, or by liabilities of any kind, but must represent the full amount standing in the name of the person to be assessed or subject to his control. All coins, United States and foreign, whether current or uncurrent; all currencies, bank notes, and other paper moneys, all moneys loaned at interest, all shares, of stock in all banking companies or associations incorporated or non-incorporated, chartered under the laws of Louisiana, or under the laws of any other State than Louisiana, or under the laws of the National Government; and all other articles and things whatever possessing any money value. This enumeration shall not be construed so as to exempt from taxation any property or values not enumerated herein; provided, that no article or things herein above enumerated shall be assessed more than once the same year. The above enumeration of assessable property is in nowise intended to apply to the assets of

banking companies or associations whose shares of stock are assessable in lieu thereof under section 27, save in so far as declared in said section 27.

SECTION 207. The following property shall be exempt from taxation, and no other, viz: All public property, places of religious worship or burial, all charitable institutions, all buildings and property used exclusively for colleges or other school purposes, the real and personal estate of any public library and that of any other literary association used by or connected with such library, all books and philosophical apparatus and all paintings, and statuary of any company or association kept in a public hall; provided, the property so exempted be not used or leased for purposes of private or corporate profit or income. There shall also be exempt from taxation household property to the value of five hundred dollars. There shall also be exempt from taxation and license, for a period of twenty years from the adoption of the constitution of 1879, the capital, machinery and other property employed in the manufacture of textile fabrics, leather, shoes, harness, saddlery, hats, flour, machinery, agricultural implements, manufacture of ice, fertilizers and chemicals, and furniture, and other articles of wood, marble or stone, soap, stationery, ink and paper, boat-building and chocolate: provided, that not less than five hands are employed in any one factory.

SECTION 13. Be it further enacted, etc., That it shall be the duty of each tax-payer, parish of Orleans excepted, to fill out a list of his property in accordance with the form provided in section 16 of this act; and he shall make oath thereto before the tax-assessor, or any officer authorized by the law to administer oaths, and return the same to the assessor before the first day of May of each and every year.

SECTION 19. Be it further enacted, etc., That all real and personal property subject to taxation, as enumerated in section 1 of this act, and not exempted by law, shall be estimated by the assessors of the several parishes of the State, parish of Orleans excepted, at its actual cash value upon the blank lists furnished by the auditor of public accounts, in accordance with this act; and in case the valuations so made by the said assessor are, in the opinion and belief of the tax-payer, in excess of and beyond the cash value of the personal or real property, the said assessor shall make or cause to be made a duplicate list of said property and shall then and there administer to the said tax-payer the oath or affirmation as follows, viz: "I swear, or affirm, that the valuation affixed opposite to each item of property in the foregoing list is the actual cash value thereof, according to the best of my knowledge, judgment, and belief, so help me God.

——— ———.

Sworn to and subscribed before me this — day of ———, A. D. 18—.

——— ———, *Assessor.*"

The assessor shall subscribe such duplicate lists and submit them to the board of reviewers as hereinafter provided for.

Act 113 of 1890.

SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, That it shall be the duty of assessors throughout the State to ascertain in so far as practicable whether the persons whose property is assessed by them and whose name figure on their assessment-rolls are white or colored, and to note such fact in their return, and affix mention thereof to each name figuring on their assessment-rolls as aforesaid.

Year.	Name of taxable persons.	Ward.	No. of acres.	Description of properties, lands, etc, etc.	Cash value of land.	Cash value of live stock.	Cash value of vehicles.	Total assessment.	Parish tax.	State tax.	Dist. levee tax.	Acreage tax.
1880	Valle, L. E., Citizens' bank.....	7	1,800	Fronting on Bayou Loutre, b'ded by Maspero & Chism & B.	14,500 00	1,000 00	500 00	16,000 00	160 00	96 00		
"	D. Aquen, J., "	3	800	Fronting on Bayou T. aux B'fs, b'ded by Marcaity & Chalarre.	6,500 00	.....	.....	6,500 00	65 00	39 00		
"	Bearegard, "	2	500	Fronting on Miss. river, b'ded by Merritt & Ducros.	3,000 00	.....	.....	3,000 00	30 00	18 00		
"	Bearegard heirs, "	2	9	B'ded by Bearegard & Ducros	500 00	.....	.....	500 00	5 00	3 00		
1883	Bauregard, "	2	400	Fronting on Miss. river, b'ded by Phillips & Ducros.	6,000 00	.....	.....	6,000 00	60 00	36 00	30 00	
"	Citizens' bank (Reid place).....	1	80	Fronting on Miss. river, b'ded by Peyroux & Languille.	6,000 00	.....	.....	6,000 00	60 00	30 00	30 00	
1884	" " "	1	80	Fronting on Miss. river, b'ded by Peyroux & Languille.	6,000 00	.....	.....	6,000 00	60 00	26 00	30 00	
1885	" " "	1	80	Fronting on Miss. river, b'ded by Peyroux & Languille.	4,500 00	.....	.....	4,500 00	45 00	27 00	22 50	
"	" " (Cavaroc place)...	1	8	Fronting on Miss. river, b'ded by Le Beau & Cavaroc.	7,500 00	.....	.....	7,500 00	75 00	45 00	37 50	
1886	" " Kenilworth.....	4	2,000	Fronting on Bayou T. aux B'fs, b'ded by Supas & Monasterio.	11,700 00	.....	300 00	12,000 00	120 00	72 00	60 00	
1887	" " Florissant.....	7	1,800	Lachinche, b'ded by Mu'l Ins. Co., Acosta & Prats.	10,000 00	1,500 00	500 00	12,000 00	120 00	72 00	60 00	
"	" " Lefebre.....	4	20	Fronting Bayou T. aux B'fs, b'ded by Nunez & St. Germain.	400 00	.....	.....	400 00	4 00	2 00	2 00	
1888	" " Florissant.....	7	1,800	Lachinche, b'ded by Mut'l Ins. Co., Acosta & Pratts.	10,000 00	1,500 00	500 00	12,000 00	120 00	72 00	60 00	
1889	Citizens' Bank of La	7	1,800	Lachinche, b'ded by Mut'l Ins. Co., Acosto & Pratts.	8,000 00	1,200 00	300 00	9,500 00	95 00	57 00	76 00	
1891	" " "	4	800	Fronting on Bayou aux B'fs, b'ded by Robertsen, Allen, & G.	6,000 00	1,000 00	500 00	7,500 00	56 25	45 00	75 00	
1892	" " "	3	750	Fronting on Bayou aux B'fs, the one undivided half of Creedmoor plantation, bounded by Victor Dussang, Isaac Bank, & Victor Gubinez.	6,250 00	2,000 00	200 00	8,450 00	63 36	50 70	84 50	45 00

STATE OF LOUISIANA,
Parish of St. Bernard.

I hereby certify that the above is a correct extract of the tax-rolls for the parish of St. Bernard, and that the aforesaid taxes for the years 1880, '83, '84, '85, '86, '87, '88, '890, '91 have been paid, but the taxes for the year 1892, hereinabove mentioned, have not been paid, and I am enjoined by the fifth circuit court of the U. S. for the eastern district of Louisiana from enforcing the payment of all taxes of 1889, '90, '91, & '92, levied on the property of the Citizens' bank, & from seizing & selling the property of the said Citizens' bank for said taxes.

(Signed) E. E. NUNEZ,
Sh'ff & ex Off. Tax-collector, Parish of St. Bernard.

Sworn to & subscribed before me this 3d day of April, 1893.
[SEAL.] (Signed) JAS. D. ST. ALEXANDER, *Clerk.*

338 *Affidavit of Lewis Ory, Sheriff & Tax-collector, Parish of St. Charles, and Certificate of J. B. Martin, Clerk & Recorder of that Parish, Marked T. C.* 24.

STATE OF LOUISIANA,
Parish of Orleans.

I, Lewis Ory, sheriff and *ex officio* tax-collector in and for the parish of St. Charles, State of Louisiana, do hereby certify that, to the best of my knowledge, the Citizens' Bank of Louisiana has never objected or protested against the assessment of its properties within this parish, and more especially of the year 1892, and that according to the books of my office said bank paid taxes on the following-described property, as hereinafter stated, viz:

Davis place.—A tract of land right bank Mis. river, bounded above by property of J. F. Majonnier and below by that of Morris Tasker & Co., measuring 26 arpents front on the river by a depth of 80 arpents, cont'g 1,783 acres.

	State.	Levee.	Parish.
Oct. 14, '80, taxes of 1880.....	78 00	65 00	110 50
Sept. 30, '81, taxes of 1880.....	78 00	65 00	94 25
Oct. 25, '82, " " 1882.....	78 00	65 00	104 00
Dec. 15, '91, " " 1891.....	60 00	100 00	100 00
	State taxes.	Levee taxes, dist., & acreage.	P'sh taxes.
Pecan grove.—A tract left bank Miss. river, bounded above by property of Elfer & below by that of J. Crupo, measuring 31½ arpents on the river by 100 arp'ts deep, cont'g ab't 800 acres, 500 acres arable land:			
339 Oct. 14, '80, taxes of 1880.....	95 34	79 45	135 06
Sept. 20, '81, " " 1881.....	95 34	79 45	115 21

	State taxes.	Levee taxes.	P'sh taxes.
Oct. 25, '82, taxes of 1882	95 34	79 45	127 12
Nov. 19, '83, " " 1883	94 32	78 60	125 76
Dec. 3, '84, " " 1884	100 02	83 35	133 36
" 29, '85, " " 1885	96 00	80 00	128 00
" 10, '86, " " 1886	96 00	80 00	128 00
Nov. 8, '87, " " 1887	72 00	60 00	96 00
Nov. 10, '88, " " 1888	60 00	50 00	80 00
Dec. 13, '89, " " 1889	60 00	80 00	90 00
Dec. 19, '90, " " 1890	60 00	.....	100 00
" " " " 1890 (10 m. tax)	.....	100 00	
" " " " " (acreage)	.....	4 65	
Dec. 15, '89, " " 1891	54 00	.....	90 00
" " " " " (10m. tax)	.....	90 00	
" " " " " (acreage tax)	.....	3 00	
Sarpy's place.—A tract left bank Miss. river, bounded above by the Pecan Grove plant, below by property of I. Harris, measuring 8 arp'ts front by 80 deep:			
Oct. 14, '80, taxes of 1880	21 00	17 50	29 75
Sept. 30, '81, " " 1881	21 00	17 50	25 38
Oct. 25, '82, " " 1882	31 00	17 50	28 00
Nov. 19, '83, " " 1883	21 00	17 50	28 00
Dec. 3, '84, " " 1884	22 80	19 00	30 40
Dec. 29, '85, " " 1885	22 80	19 00	30 40
Dec. 10, '86, taxes of 1886	22 80	19 00	30 40
340 Nov. 8, '87, " " 1887	18 00	15 00	24 00
Nov. 10, '88, " " 1888	18 00	15 00	24 00
Dec. 13, '89, taxes of 1889	18 00	24 00	27 00
" 19, '90, " " 1890	18 00	.....	30 00
" " " " " (ten m. tax)	.....	30 00	
" " " " " (acreage)	.....	3 75	
Logan place.—A tract right bank Miss. river, bounded above by property of A. Zeringue & below by that of Widow I. Belsom, measuring 2 arpents front by 40 deep:			
Nov. 10, '88, taxes of 1888	8 40	7 00	11 20
Dec. 13, '89, " " 1889	8 40	10 50	12 60
" 19, '90, " " 1890	8 40	14 00	14 00
Dec. 15, '91, " " 1891	8 40	14 00	14 00

As witness my hand officially, at the parish of St. Charles, this 9th day of March, 1893.

(Signed) LEWIS ORY,
Sheriff & Tax-collector.

Sworn to and subscribed before me this 9th March, 1893.

[SEAL.] (Signed) J. B. MARTIN, *Clerk.*

STATE OF LOUISIANA, }
Parish of St. Charles. }

I hereby certify that the Davis place hereinabove firstly described

was by act before E. Grima, notary, on 6th November, 1882,
341 *was* sold by the Citizens' Bank of La. to O. T. Dugazon, and that by sheriff's deed of November 7th, 1890, the said property was retransferred to the Citizens' Bank of La., the whole as it appears by the records of my office; and I further certify that the Sarpy's place, hereinabove 3dly described, was sold by the Citizens' Bank of La. to J. Crespo by act before E. Grima, notary, on the 28th February, 1891; and I further certify that the Logan place, hereinabove 4thly described, was sold by sheriff's deed to the Citizens' Bank of La. on March 9th, 1888, and sold by the Citizens' Bank of La. to R. Vallé by act before E. Grima, January 16th, 1892, the whole as it appears by the records of my office.

In testimony whereof I have hereunto set my hand and affixed my official seal this 23d March, 1893.

[SEAL.] (Signed) J. B. MARTIN,
Clerk & Recorder.

Affidavit of T. T. Baudouin, Assessor Parish of St. Charles, Marked T. C. 25.

STATE OF LOUISIANA,
Parish of St. Charles.

Before me, the undersigned authority, personally appeared Mr. T. T. Baudouin, who declared that he has been the assessor of the parish of St. Charles from the year 1877 up to the end of the year 1892, except the year 1884, and that during the whole of that time the Citizens' Bank of Louisiana never objected to or opposed the assessments made of the property or properties belonging to said institution or corporation.

(Signed) T. T. BAUDOUIN.

Sworn to and subscribed before me this 28th day of March, 1893.

[SEAL.] (Signed) J. B. MARTIN, *Clerk.*

342 *Affidavit and Certificate of J. H. Womack, Sheriff and Tax-collector, Parish of St. Helena, Marked T. C. 26.*

TAX-COLLECTOR'S OFFICE,
ST. HELENA PARISH, LA., *M'ch* 10th, 1893.

This certifies that I have examined the assessment-rolls from 1880 to 1891 of this St. Helena parish, La., and find the taxes of the Citizens' bank thereon marked paid. I further certify that since and including the year 1888 the Citizens' bank have promptly paid their taxes to me, and no complaint as to assessment that I know of except the year 1892. I further certify that the above-mentioned assessment-rolls from 1880 to 1891 are the true assessment tax rolls of St. Helena par. and records of this office.

(Signed) J. H. WOMACK,
Sheriff and ex Officio Tax-coll. of St. Helena Par., La.

CLERK'S OFFICE,
ST. HELENA PARISH, LA., *M'ch 10th*, 1893.

Before me, A. C. Dean, clerk of court, came and appeared J. H. Womack, sheriff and T. C. for St. Helena parish, who on oath deposes and say- the within-enclosed certificate is true and correct.

(Signed) J. H. WOMACK,
Sheriff and ex Officio Tax-coll., St. Helena P'h.

Sworn to and subscribed before me this March 10th, A. D. 1893.

[SEAL.] (Signed) A. C. DEAN,
Clerk and ex Officio Recorder.

343 *Offerings of State Tax-collectors of City of New Orleans and Parishes of the State of Louisiana.*

Act	5 of extra session	1878,	page	218,
"	103 of	1886,	"	118,
	78 of	1876,	"	120,
	46 of	1877,	"	72,
	44 of	1886,	"	56,
	26 of	1884,	"	30,
	59 of	1886,	"	96,
	33 of	1879,		51,
	93 of	1890,		95,
	95 of	1890,		99,
	79 of	1890,		63,
	13 of	1892,		10,
	14 of	1892,		18,
	89 of	1892,		113,

all of above showing formation of levee districts.
To be read from statute books, under agreement.

Final Decree.

Entered and filed June 26, 1893.

United States Circuit Court.

THE CITIZENS' BANK OF LOUISIANA
vs.
THE BOARD OF ASSESSORS *et als.* } No. 12112.

This cause came on at this term to be heard upon the bill, supplemental bills, answers, exhibits, and testimony, and was submitted; upon consideration whereof, for the reasons assigned in the written opinions of the court on file—

It is hereby adjudged and decreed that the city of New
344 Orleans and C. Harrison Parker, State tax-collector for the 1st collection district, Henry Guillotte, State tax-collector for the 2nd collection district, and their successors in office be, and they are hereby, enjoined and prohibited from demanding or collecting or enforcing payment of any and all taxes, whether of the State of Louisiana or the city of New Orleans, for the years 1889, 1890, 1891,

1892, upon the capital, property, or shares of stock of the shareholders of said bank, whether assessed against the bank or its shareholders, as said taxes appear on the regular or supplemental assessment-rolls against the bank for said years, prepared by the board of assessors for the parish of Orleans, or otherwise, and that the said city of New Orleans and said State tax-collectors are hereby enjoined and prohibited from demanding, collecting, or enforcing payment in any manner from the Citizens' bank or by seizure and sale of its property of any license or license tax, whether for the city of New Orleans or the State of Louisiana, for the years 1889, 1890, 1891, 1892, and that J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibaut, E. C. Beuker, E. E. Nunez, Lewis Ory, J. H. Womack, A. W. Connely, John H. Clack, sheriffs respectively as named of the following parishes: East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemine, Pointe Coupée, St. Bernard, St. Charles, St. Helena, Terrebonnes, West Feliciana, and their successors in office be, and they are hereby, enjoined and prohibited from demanding, collecting, or enforcing payment in any manner of any and all taxes for the years 1889, 1890, 1891, 1892, whether for said parishes or for the State of Louisiana, imposed upon any and all property, real or personal, of said bank in said parishes, and each of them, as said taxes appear on the original or supplemental assessment-rolls of taxation for said parishes or others;

that said assessments or supplemental assessment rolls be,
345 and they are hereby, decreed to be null, void, and of no effect,

and any and all inscriptions thereof or based thereon in the office of the recorder of mortgages for the parish of Orleans or in the office of the clerks of the district courts, *ex officio* parish recorder of said parishes, be, and they are hereby, decreed to be erased and cancelled, and the exemption of said Citizens' bank, its capital, property, and shares of stock of its shareholders, is hereby recognized and decreed to exist as conferred by its charter and the laws amendatory thereof and relating to the Citizens' bank, and especially by the act No. 40 of 1874, extending the charter of the Citizens' bank, which extension and the said exemption for the further period thereof is hereby recognized and decreed to exist, and the injunctions herein issued is hereby made peremptory; and it is further ordered that the defendants pay the costs of suit.

June 26, 1893.

(Signed) EDWARD C. BILLINGS, *Judge.*

Petition for Appeal and Order.

Filed April 18th, 1894.

U. S. Circuit Court, Eastern District of Louisiana.

CITIZENS' BANK OF LOUISIANA *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

To the honorable the U. S. circuit court for the eastern district of Louisiana:

The petition- of the City of New Orleans and the Board of As-

sessors for the Parish of Orleans and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively, State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A.
346 Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, John H. Clack, respectively, sheriffs of the following parishes: East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, defendants herein, respectfully represent that the said defendants, petitioners, are aggrieved by the decree of this honorable court herein rendered and signed on the 26th day of June, 1893; that there is error to the prejudice of said defendants in said decree by which they will be irreparably injured.

Wherefore petitioners pray that they be allowed an appeal from said decree returnable to the Supreme Court of the United States according to law, upon giving bond in an amount to be fixed by the court, and that the Citizens' Bank of Louisiana be cited to answer said appeal, and petitioners pray for general relief.

(Signed) E. A. O'SULLIVAN,
City Attorney, Solicitor for City of New Orleans,
M. J. CUNNINGHAM,
Att'y Gen'l,
R. LYONS,
Att'y for Tax-collectors,
Solicitors for Board of Assessors & Tax-collectors.

Order.

Let an appeal be granted petitioners as prayed for, returnable to the Supreme Court of the United States, at the city of Washington, within thirty days from the date hereof, upon the petitioners giving bond, with good and sufficient security, in the sum of one thousand dollars conditioned as the law directs.

New Orleans, April 18th, 1894.

(Signed) CHARLES PARLANGE,
U. S. Judge.

347 *Assignment of Errors.*

Filed April 18th, 1894.

U. S. Circuit Court, Eastern District of Louisiana.

CITIZENS' BANK OF LOUISIANA *vs.* BOARD OF ASSESSORS *et als.* } No. 12112.

Now into this honorable court come the City of New Orleans and the Board of Assessors for the Parish of Orleans and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the

parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, and John H. Clack, respectively sheriffs of the following parishes: East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, defendants in the above numbered and entitled cause, and assign the following errors in the opinion and decree of the court herein of date June 26, 1893:

First. That the court erred in refusing to hold that act No. 40 of 1874, extending charter to A. D. 1911, was enacted subject to the provision of the State constitution of 1868, and that the legislature thereof, while it might extend the life of the corporation, could not, after the period fixed for the duration of its charter, exempt the corporation from the tax required to be levied by the constitution of 1868 and 1879.

Second. That the court erred in not giving effect to the provision of the State constitution of 1879.

Third. That the court erred in not holding that under the provision of act No. 79 of 1880 the bank was subjected to the provision of the constitution of 1879 relative to taxation, particularly
348 articles 234 and 237 of that constitution, the said act showing on its face that it was passed in the interest of the bank and on condition that the bank accept the conditions of the act, which the bank did.

Fourth. That the court erred in not holding that the property of the bank was subject to the burden of reclaiming same and protecting it from overflow.

Fifth. That, considering the evidence and the law applicable thereto, the court erred in not dismissing the bills of complaint herein.

(Signed) E. A. O'SULLIVAN,
City Attorney, Solicitor for City of New Orleans,
M. J. CUNNINGHAM,
Att'y Gen'l,
R. LYONS,
Att'y for Tax-collectors,
Solicitors for Board of Assessors & Tax-collectors.

Bond for Appeal.

Filed April 19, 1894.

UNITED STATES OF AMERICA:

Know all men by these presents that we, The City of New Orleans, The Board of Assessors for the Parish of Orleans, and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M.
349 Connelly, John H. Clack, respectively sheriffs of the parishes

of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Point Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, and C. Harrison Parker, are held and firmly bound, jointly and severally, unto The Citizens' Bank of Louisiana in the sum of one thousand ($1,000.00) dollars, lawful money of the United States of America, to be paid to the said Citizens' Bank of Louisiana, its heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 19th day of April, in the year of our Lord eighteen hundred and ninety-four.

Whereas the said City of New Orleans, Board of Assessors for the Parish of Orleans, and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, John H. Clack, respectively sheriffs of the parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Pointe Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, having heretofore, to wit, on the 18th day of April, 1894, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 26th day of June, 1893, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of The Citizens' Bank of Louisiana *vs.* Board of Assessors for the Parish of Orleans *et als.*, No. 12112 of the docket thereof:

350 Now, the condition of the above obligation is that if the above-bounden City of New Orleans, Board of Assessors for the Parish of Orleans, and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, John H. Clack, respectively sheriffs of the parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Pointe Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, shall prosecute their said appeal to effect and shall answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) E. A. O'SULLIVAN,
City Attorney,
M. J. CUNNINGHAM,
Attorney General,
R. LYONS,
Solicitors for Principals on Bond.
C. HARRISON PARKER.

Signed, sealed, and delivered in the presence of—

——— ———.

Approved April 19, 1894.

(Signed) CHARLES PARLANGE,
U. S. Judge.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, } ss:

Personally appeared C. Harrison Parker, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, State of Louisiana, and is worth the full sum of one thousand dollars over and above all of
351 his debts and liabilities and property exempt from execution.

(Signed) C. HARRISON PARKER.

Subscribed and sworn before me this 19th day of April, 1894.

[SEAL.] (Signed) E. R. HUNT,
Commissioner U. S. Circuit Court,
Eastern District of Louisiana.

352 THE UNITED STATES OF AMERICA:

Circuit Court of the United States, Eastern District of Louisiana.

The President of the United States to The Citizens' Bank of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, within 30 days from the date hereof, pursuant to a petition and order for appeal filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein you are appellee and The City of New Orleans, The Board of Assessors for the Parish of Orleans, and C. Harrison Parker, Henry Guillotte, H. D. Monier, and W. T. Patton, respectively State tax-collectors of the 1st, 2nd, 3rd, and 4th districts of the parish of Orleans, and J. H. Slaughter, J. V. Jones, C. T. Cade, A. A. Browne, William L. Langridge, P. E. Lorio, C. V. Thibault, E. C. Benker, E. E. Nunez, Lewis Ory, J. H. Womack, A. M. Connelly, John H. Clack, respectively sheriffs of the parishes of East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Plaquemines, Pointe Coupée, Saint Bernard, Saint Charles, Saint Helena, Terrebonne, West Feliciana, are appellants, to show cause, if any there be, why the judgment rendered against the said appellants, as in said petition and order for appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 18 day of April, in the year of our Lord one thousand eight hundred and ninety-four.

CHARLES PARLANGE, *Judge.*

353 [Endorsed:] Return. Citizens' b'k. United States circuit court, eastern district of Louisiana. No. 12112. Citizens' Bank of Louisiana *vs.* Board of Assessors *et als.* Citation of appeal. No. —. U. S. circuit court, eastern district of Louisiana, New Orleans division. Filed May 5, 1894. E. R. Hunt, clerk.

Marshal's Return.

Received by U. S. marshal, New Orleans, La., April 25, '94.

On this 5th day of May, 1894, before the undersigned authority personally came and appeared James R. Pennigre, deputy United States marshal for the eastern district of Louisiana, who, being by me duly sworn, deposes and says that on the 26th day of April, 1894, he served copy hereof on the Citizens' Bank of Louisiana by handing the same to the president thereof, Geo. W. Nott, in person, in the city of New Orleans, Louisiana.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

JAS. R. PINNIGRE,
Deputy U. S. Marshal.

Sworn to & subscribed before me on this 5th day of May, 1894.
E. R. HUNT, *Clerk.*

354 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 350 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial, in the case of The Citizens' Bank of Louisiana *vs.* The Board of Assessors for the Parish of Orleans *et als.*, No. 12112 of the docket of the said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 15th day of May, A. D. 1894.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT, *Clerk.*

I, Charles Parlange, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was at the time of signing said certificate and is now the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 15th day of May, A. D. 1894.

CHARLES PARLANGE, *Judge.*

355 *Opinion on Rule for Injunction Pendente Lite.*

Filed Jan'y 23, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

THE CITIZENS' BANK
vs.
THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS *et als.* } No. 12112.

BILLINGS, *Judge:*

This case has been submitted upon an application for an injunction *pendente lite*. The defendants are about to levy and collect a tax upon the shares of the bank. The question to be passed upon is whether the shares are exempted from taxation.

The original charter was granted in 1833 (Acts of 1833, page 172). That act contemplated that the capital of the bank, which was fixed at $14,000,000, would be obtained by the issuance by the bank of its own bonds. The subscribers for the stock were to pay nothing upon their subscriptions, but were to furnish mortgages upon cultivated lands and slaves to secure the payment of their subscriptions. These mortgages were to be held as a security for the payment of the bonds. The bank after three years of effort found itself unable to negotiate its own bonds; consequently in 1836 (Acts of 1836, p. 16) the charter of the bank was amended and the bonds of the State were loaned to the bank as its capital to the amount of $12,000,000. The State was to have a graduated interest in the profits of the bank, a one-sixth interest in case the loan of bonds should be taken to the amount of the full capital. The amount of State bonds actually used by the bank was $7,000,000. In 1852 the

356 charter of the bank, having been forfeited for a failure to comply with the law with reference to specie payment (Acts of 1852, No. 41, page 109), was restored to the corporation and it was reinvested with all the rights and privileges which it enjoyed under the original and amended charter.

The original and amended charter of the bank, which was for 51 years and would have expired in 1884, was in 1874 (Acts of 1874, No. 40, p. 77) extended for the further period of 27 years, viz., till 1911.

At the time of the granting of the original and amended charters—*i. e.*, in 1833 and 1836—there was no constitutional prohibition which directly or inferentially prevented the legislature from exempting from taxation the capital of the bank. In 1874, when the charter was extended, the constitution of 1868 was in force. Art. 118 of that constitution is as follows:

"Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The General Assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes. The General Assembly may levy an in-

come tax upon all persons pursuing any occupation, trade, or calling, and all such persons shall obtain a license as provided by law; all tax on incomes shall be *pro rata* on the amount of income or business done, and all deeds of sale made or that may be made by collection of taxes shall be received by courts in evidence as *prima facie* valid sales. The General Assembly shall levy a poll-tax on all male inhabitants of this State over twenty-one years old for school and charitable purposes; which tax shall never exceed one dollar and fifty cents per annum."

The first question is as to the meaning and intent of the legislature in that part of the amended charter of 1836 upon the subject of the exemption of the bank from taxation—that is, the first
357 question is, did the legislature in the amended charter, having established certain relations of the State to the bank and declaring in section 4, p. 17, Acts of 1836, "and the capital of said bank shall be exempted from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter," it being provided that the charter should continue 51 years; sec. 30, original charter, Acts of 1833, p. 192, mean that the exemption should arbitrarily cease at the end of 51 years or that the exemption should continue so long as the existing relations of the State to the bank should require that the charter should continue.

In dealing with this question regard must be had to the rule that when it is claimed a statute creates an exemption from taxation it is to be strictly construed, and that the presumption is against it. The foundation of this rule shows its meaning. It is founded upon the doctrine that taxation is so essential to the welfare of the State that the contract of exemption must be clearly shown; that every reasonable doubt should be resolved against it; but this rule does not mean that the inference must under all circumstances be against the exemption. It means that the inquiry must be an impartial one, the burden of satisfactorily establishing the exemption being upon him who claims its existence. It must be made to appear to the court affirmatively that the intention of the legislature was to exempt. To apply the rule to this case: The burden is upon the complainants; they must show that by the terms of the exemption and under the facts as they existed at the time it was granted the exemption claimed was intended by the legislature or the right to tax will be inferred. This intent will not be deemed established in case of mere doubt or a merely ambiguous set of facts; there must be a clear preponderance of persuasive facts in favor of the ex-
358 emption or it will be rejected. Thus in Trueman *vs.* White, 117 U. S. R., 145, notwithstanding this presumption, it was held that "the right to have shares in the corporation exempt from taxation was conferred upon a corporation by a grant which gave to it all the rights, powers, and privileges of another corporation if the latter possessed such right of exemption."

I will consider under this rule whether the words "during the continuance of its charter" mean "during the continuance as fixed herein" or "during the continuance as fixed herein and as the in-

terests of the State may require the legislature hereafter to continue the corporation in existence."

The answer to this question will, as it seems to me, depend upon the object of the legislature in granting the exemption. This object will best appear from the relations of the State to the bank in 1836. Out of twelve directors the legislature originally appointed 6, and now it appoints 5.

The State was to have an interest on a graduated scale ranging from $\frac{1}{6}$th to $\frac{1}{24}$th in the profits of the bank according to the amount of bonds taken by it.

The bonds to the amount of $12,000,000 to be issued by the State were made by the State to the order of the bank and by the latter indorsed, and were thus payable to bearer. The stock mortgages were transferred to the State and to whomsoever might be the holders of the bonds. They were to bear interest at the rate of 5%, and were payable in five instalments, one-fifth at Feb'y 1st in each of the years 1850, 1859, 1868, 1877, and 1886. The bank was to build certain railroads and canals, which ultimately were to be turned over to the State, and that portion of the profits belonging to the State should, when available to the State, be devoted to the cause of education in declared proportions throughout the State.

The profits of the bank were to be added to the capital of the bank. There were to be no dividends among the stock-
359 holders nor distribution of earnings to the State except out of a small fraction of the profits, and then not till after the successive installments of the bonds had been paid.

It may be remarked that none of the installments of the bonds have been paid.

I will sum up the statutory relations of the State to the bank thus disclosed by saying the State furnished the entire capital by the loan of its own bonds, and till the bonds were paid all the stock securities or mortgages made by the stock subscribers were transferred and hypothecated, and all the profits of the bank were pledged and impounded for the payment of the bonds. This summary proposes the way to reach an answer to the question how long was the exemption to continue? For fifty-one years, or so long as the charter relations of the State to the exempted property continued? The object of the exemption must determine its originally expressed period of exemption. Here was an institution which had and was to have nothing for itself till its profits had with the stock mortgages paid the State's bonds. The exemption of its capital from taxation was the exemption of something out of which the State's own obligations were to be paid, and the public works—the railroads and canals—which the bank was to build were to be constructed. The exemption was therefore till the bonds should be paid a reservation of the State's own property from taxation. One-fifth part of these bonds were not to mature till two years after the original periods for the existence of the charter had elapsed. It seems to me that the chief object of the exemption being to facilitate the payment of the State's own bonds, the period of exemption declared must be construed to be so long as the charter was by the

legislature continued that the State's bonds might be paid.
360 It is true fifty-one years was a long period. But even in 1836 it was found necessary to make the last installment of the bonds payable fifty-three years after the original charter commenced. The enterprise was of such great public moment that the State advanced the entire capital—possibly, $12,000,000—actually, $7,000,000. The exemption was for the purpose of facilitating the repayment to the State for this advance, and the provision for it in the amended charter "during the continuance of its charter" meant not only as therein fixed, but as the payment of the State's obligations should lead the State afterwards to extend it.

It is the whole charter, the object of the exemption and the destination of the profits of the institution which require this inference.

The supreme court in The Citizens' Bank *vs.* Bouny, 32 Ann., 245, held that, without regard to this clause expressly exempting from taxation the capital, the reservation of the profits for the extinguishment of the bonds of the State contained in the charter of 1836 prohibited the taxation of the accumulations by the State. If a corporation without capital save as derived from its profits, is by the scope and meaning of its charter, so destined and dedicated to the purposes of the State that even without specific exemption of its accumulations they cannot be taxed by the State, it must follow that when in the same charter the capital is expressly exempted during its existence under the charter the express exemption is in keeping with the implied and inheres in the charter throughout its original and prolonged term, if it be kept alive by the State, to render this exclusive destination or dedication available to itself.

This was the view of the legislature in 1874, when they extended the charter. The act making that extension is act No. 40, p. 77, and, with its title and preamble, is as follows:

361 Whereas by reason of the great loss suffered by the agricultural interest of the State in consequence of the late war, it would be ruinous for the stockholders to pay within the next thirteen years, before the limitation of the charter of the Citizens' Bank of Louisiana, the amount of arreared installments and interest due by them, as well as the balance of their indebtedness; and whereas the sacrifice of the lands mortgaged for the payment of the State bonds issued in favor of the bank would endanger the security of the State; and whereas it is the interest of the State that a prolongation of the charter of the Citizens' Bank of Louisiana be allowed, so as to enable said institution to collect the debts due by the stockholders, and thereby facilitate the payment of the State bonds:

SECTION 1. Be it enacted, by the senate and house of representatives of the State of Louisiana, in General Assembly convened, That the provisions of the thirtieth section of the act entitled An act to incorporate the Citizens' Bank of Louisiana, approved April 1, 1833, which reads as follows: "And the charter shall continue for and during the space of fifty-one years from the passage thereof," be amended and re-enacted as follows: "That the charter of the Citizens' Bank of Louisiana shall continue for and during the space

of twenty-five years from and after the time fixed for its liquidation by the said charter, and shall expire on the thirtieth of January, 1911."

SEC. 2. Be it further enacted, etc., That the Citizens' Bank of Louisiana, through its board of directors, be, and is hereby, authorized to extend, with the consent of the holders thereof, all the State bonds issued in its favor under the second section of the act entitled An act amendatory and supplementary to the several acts relative to the act to incorporate the Citizens' Bank of Louisiana, approved January 30, 1836, now outstanding, as well as all interest warrants issued by said bank falling due from and after the passage of this act, to such time and on such conditions as may be agreed upon with the holders of said bonds and interest warrants, provided said extension be not made for a longer period than twenty-five years from the respective maturities, and at no higher rate of interest than the said bonds now bear.

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SEC. 3. Be it further enacted, etc., That the present act shall be in force from and after its passage, any law to the contrary notwithstanding.

There certainly are grave difficulties in the way of maintaining that under this statute, which is a tripartite contract—that is, a contract between the State, the bank, and the bondholders—the State can secure the extension of its own bonds for the period of twenty-five years and the continuation of a charter which in effect destines the profits of the bank to the payment of its bonds for two years beyond that period, and at the same time disregard that destination by imposing a tax which, by the decision of the supreme tribunal of the State, is held to be so inconsistent with that destination as to be prohibited by it.

It is to be observed that the legislature merely extended the charter, inferring that the original words "during its continuance" carried with them the original exemption throughout the period of the extension. I think in this the legislature drew the inference from the entire charter which a study of it requires.

The reason in the original charter, as amended in 1836, for making the duration of the exemption co-extensive with any prolongation of the charter inhered in the purpose which was paramount with the State upon the subject of time in connection with the existence of the bank, in that the bank and the exemption must endure till the bonds she had borrowed had been paid; but in the extension of the charter and the continuance of the exemption two other parties also had an interest and fixed rights—the bank and the bondholders.

363

It is unnecessary to speak of the interest of the bondholders, and there is a complication as to their right to insist upon the exemption springing from their release of the bank, except so far as relates to the stock mortgages.

It may be, however, remarked that as between the holders of the bonds and the obligors upon the bonds the State was the maker and principal and the bank the indorser and surety, though as between themselves the bank was under the obligation to pay of a principal.

The release of the surety did not discharge the principal, and the State was still left liable as a principal obligor who had the right to look to the bank for repayment, and thus there exists the same necessity to consider the question of exemption as though there had been no release of the bank by the holders, for the bank had and has an interest subordinate only to that of the State in having the exemption maintained. The period of its existence and with it the right of the State to participate in its profits to the extent of reserving one-sixth part thereof, and the pledge and impounding of all its profit were continued along with its existence for the further period of twenty-seven years. It was the payee and second obligator upon the State bonds whose payment was by the same act postponed. It has a right therefor- as trustee for its stockholders to in sist upon the exemption unless it has by some act waived this right.

The respondents, the tax officers, say it has waived this right by assenting to the condition of the act No. 79, acts of 1880. It is conceded that the directors of the bank gave the assent as required by that act. That act is as follows:

364 "Whereas due proof has been shown to the house in which this bill originated that article 48 of the constitution has been complied with: Therefore—

"SECTION 1. Be it enacted by the General Assembly of the State of Louisiana, That the Citizens' Bank of Louisiana in addition to the powers now conferred by law, shall have power to compromise and settle the liability of the mortgage stockholders of said bank, arising out of the stock mortgages granted by them to secure their subscriptions to the capital stock of said bank, said compromises to be made when deemed judicious by said bank and with the assent of the stockholders; provided, the same be approved by the directors on the part of the State, as provided in this act, on such terms as may be agreed upon, and when effected the said stock mortgages to be released and canceled.

"Second. That all sums realized from said compromises, as well as from the enforcement of said mortgages by the usual legal proceedings, shall be held and applied by the banking department of said bank to the satisfaction of the bonds of the State, issued in aid of the bank, and to the legal liabilities of said mortgage-stock department, and to the necessary expenses of said department.

"Third. That the directors for the State on the board of said bank shall be increased to five, to be appointed by the governor, when this act shall be accepted by the bank, whose duties shall be the same as now provided by law, and in addition thereto they shall supervise the compromise, as contemplated in section one of this act, and for this purpose they shall hold meetings when called upon so to meet by the president of the board of directors of the Citizens' bank, and shall keep a record of their meetings and no compromises under the provisions of this act shall be effected without the approval of the majority of said directors on the part of the State.

"Fourth. That this act shall not be binding or confer any
365 right upon the bank unless accepted within twelve months

from the date of this act, and under the conditions prescribed in article- 234 and 237 of the constitution, such acceptance to be manifested by the bank in writing and filed in the office of the secretary of state."

It is claimed, and I think justly, that the meaning of the assent is that the directors agreed to waive the exemption, as they did all other special privileges enjoyed by the bank, as required by the legislature. If the legislature had a right under the constitution to require this agreement as a condition of the act or statute enuring to the benefit of the bank, then the agreement to waive is valid and obligatory; if the legislature under the constitution had not the right to require this agreement as such a condition, then the agreement is void and the rights of the bank are unaffected by it.

In order to determine this question we must look at two provisions of the constitution, art. 234 and art. 5. These are as follows:

The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter, or amend the same, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

Art. 5 is as follows: The right of the people peaceably to assemble and petition the government or any dep't thereof shall never be abridged.

I take it to be undeniable that the right of petition, as that expression is used in the constitution of the State, means the right of every being, natural or artificial, to apply to any department of government, including the legislature, for the redress of
366 grievance or the bestowal of right, and is a further guarantee of the enjoyment of such redress or right when obtained free from all forfeiture or penalty for having sought or obtained it.

If these two provisions are read together, it is clear that they mean that the constitution prohibited the legislature from at all impeding the right of petition, except that in case it remitted a forfeiture to a corporation or altered its charter or passed any general or special law for its benefit it might interfere with that right so far as to exact a surrender of all privileges other than those which could be granted under the existing constitution. This was a power given to the legislature in case the alteration or amendment or general or special law was for the benefit of the corporation and not, as in this case, where the amendment, the special law, was to enable the bank to apply certain securities to the payment of obligations upon which the State was an obligor, and thus to protect the credit of the State. The question turns upon whether the thing sought was such a thing as is meant and specified in article 234. The thing granted was for the bank, with the assent of the directors appointed by the State, to realize for the State and bondholders out of the stock mortgages by compromise—*i. e.*, without a foreclosure and sale. These stock mortgages were hypothecations of plantations and slaves. The destruction of slavery had reduced the value of the hypothecations more than half, or, possibly, two-

thirds. It was necessary to find a purchaser for the mortgaged property and at a price equal to the par value of the stock of the subscriber or for the bank itself to become the purchaser of the property. The first was impossible, the second was ruinous for the State. Therefore it was enacted that with the consent of the State's representatives the bank might, upon the receipt of a fair sum by way of adjustment, release any of the mort-
367 gaged property and apply the sum realized to the payment of the State bonds. This was in no true sense a law passed for the benefit of the bank. It was rather a legislative permission to resort to the only practicable method of making the mortgages available to the extinguishment of the State bonds and should be denominated as a law passed by the State for the benefit of itself. Again, it was in no sense the creation of a special right, but was rather the recognition by the State of a right evidently existing which any court of equity would in a case where all the parties were before the court have recognized without the act of 1880. It would follow that the legislature in compelling the bank to make any renunciation in order to have force and operation given to that statute acted not only without authority, but in defiance of the constitutional prohibition, which forbad- it to impede the right of petition except in a certain class of cases, of which the application for the grant or recognition contained in the act of 1880 was not one, and that the renunciation exacted from the bank by the legislation in violation of the constitution of the State is void.

My conclusion therefore is that the original charter contemplated and declared that the exemption should be coextensive with the charter, and that the bank has done nothing which can prevent her from insisting upon her capital being exempt from taxation in accordance with the terms of her charter. The thing sought by this bill to be preserved from taxation is the shares of the stockholders. The thing exempted is the charter *eo nomine* is the capital of the bank.

In The Bank *vs.* Bouny, *supra*, the supreme court of this State held that since the profits were pledged and impounded for the payment of the State's bonds, taxation by the State of the accumulations and of the shares was prohibited.

In Houston *vs.* The La. State Lottery, U. S. R. P., the Su-
368 preme Court of the U. S. held that under the statutes prescribing the manner of collecting a tax upon the shares of a corporation as it then existed (and it is unchanged), since the corporation is required to pay the tax and must look to the dividends upon the shares and to the stockholders for reimbursement, it was a tax upon the corporation itself. *A fortiori* would this be true when dividends are prohibited and the profits or earnings of the corporations are otherwise destined.

Let, therefore, the injunction *pendente lite* issue.

Opinion on Final Hearing.

Filed June 26, 1893.

Circuit Court of the United States, Eastern District of Louisiana.

THE CITIZENS' BANK
vs.
BOARD OF ASSESSORS. } No. 12112.

BILLINGS, *Judge:*

This case is submitted for final decree upon the proper pleadings, proofs, and exhibits.

All the questions involved have been dealt with in the opinion heretofore rendered in the case, with a single exception.

The new question presented is whether the exemption from taxation includes simply the capital of the bank, technically so termed, or whether the exemption includes not only the shares of the shareholders as represented in what would be technically called the capital, but any other property of the bank. The original charter, acts of '33, page 192, section 30, exempts its capital and property which it may acquire by virtue of any of the provisions of this act.
369 This amendatory act of '36, page 17, section 4, exempts the capital of the bank from taxes, but the provision as to the capital of the bank is peculiar. Section 29, page 191, of the original act, which provision has never been repealed or qualified, provides that all the profits made by the said corporation, with certain exceptions, shall be added to and made a part of its capital, and this state of things, so far as the statute is concerned, is to continue until the final dissolution of the corporation; therefore, under this section, since it could require nothing but profits, all its profits are added to its capital by the very terms of its fundamental law. It differs from any other bank in that respect. The reason of this provision was that the State had its right to have loans and its interests in the profits of the bank, and therefore it saw fit to provide that all its profits should be added to and made a part of its capital.

Again, as a matter of fact, I understand that the property, besides what the assessors term the capital, is property which the bank received through foreclosures of its stock mortgages. The bank had no other capital except the subscription by the stockholders secured by stock mortgages. These stock mortgages have been foreclosed. The mortgaged property acquired by the bank and this property is nothing but a portion of the capital of the bank realized by the institution by these foreclosures. In the case of this bank there is therefore no distinction between this property and the capital; these several hundred thousand dollars of plantations, etc., which have been realized to the bank by the foreclosures of its stock mortgages are a portion of its capital.

If I am mistaken in this and it is true as a matter of fact that any of this property sought to be taxed has been acquired in any other way than under and through the mortgages which are called stock

mortgages, it would still be true that it was profits within the meaning of the section 297 of the charter and would not be
370 liable to taxation.

For these reasons I think that the injunction portion of the final decree should have the same scope as the injunction *pendente lite* and should enjoin any taxation upon the capital of the bank, so far as it is represented by money, or so far as it is represented by the foreclosures of the stock mortgages which have been received from the stock subscribers in lieu of the money promised by their subscription, or so far as it represents the profits of the bank.

Endorsed on cover: Case No. 15,596. E. Louisiana C. C. U. S. Term No., 108. The City of New Orleans, The Board of Assessors for the Parish of Orleans, *et al.*, appellants, *vs.* The Citizens' Bank of Louisiana. Filed May 26th, 1894.

JAN 11 1897
JAMES H. [illegible]

No. 108 (15,596).

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1896.

THE CITY OF NEW ORLEANS, THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS ET AL., APPELLANTS.

versus

THE CITIZENS' BANK OF LOUISIANA.

Appeal from the Circuit Court of the United States for the Eastern District of Louisiana.

BRIEF ON BEHALF OF APPELLANTS.

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No. 108 (15,596).

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SYLLABUS.

An exemption from taxation must be strictly construed against the grantee, and cannot be extended in scope or term, beyond the clear and unquestioned intent of the Legislature, all doubts being construed against the grantee.

An exemption of the capital of the Bank from taxation does

not extend to nor cover the property of the Bank nor its shares of stock in the hands of its shareholders.

The exemption of a Bank from taxation "during the continuance of its charter," means only during the term for which the charter was then, or had theretofore been granted; and such exemption, being no part of the corporate franchise necessary to corporate existence, would not be renewed by the mere extension of the charter for an additional term by a subsequent act; but a special provision and declaration would be required in the act of extension to manifest the legislative intent to include a continuance of the exemption.

A corporation enjoying an exemption from taxation, granted by its charter, loses and waives such exemption by applying to the Legislature for and securing the passage of a law for its benefit during the existence of a Constitution of the State adopted subsequent to its charter, which contains one article requiring all property to be taxed alike, and another article providing that no such law shall be passed for the benefit of a corporation except upon the condition that it thereafter hold its charter subject to the provisions of the existing Constitution, particularly when the law prepared by and passed for such corporation contains the prescribed condition, and the corporation subsequently formally accepts the terms of the act.

During the existence of a State Constitution containing an article providing that taxation shall be equal and uniform throughout the State, requiring all property to be taxed in proportion to its value, and enumerating the limited classes of property which the General Assembly shall have power to exempt from taxation, the Legislature of

such State has no power to exempt from taxation any property belonging to any other class than those enumerated, and any act granting such exemption would be null and void to that extent.

Such nullity would attach to an act continuing an exemption beyond the term originally granted, by the extension of a charter containing such exemption, the same as it would to an original grant.

A corporation whose charter is extended by an act of the Legislature acting under such a Constitution, although its charter had theretofore included such exemption during its original term, is not entitled to the enjoyment of the exemption during its extended term.

A corporation has no greater rights, nor longer term of existence than may be conferred by its charter, which the Legislature is under no obligation to extend; and if a future Legislature sees proper to extend such charter, it acts subject to the then existing constitutional limitations and prohibitions.

A judgment rendered in an injunction suit against one tax collector to enjoin the collection of the taxes of a particular year, is not *res judicata* in a suit brought against another tax collector and the assessors to prevent the assessment and collection of taxes of an entirely different year.

A judgment does not constitute *res judicata* of any question not necessary to be decided in the determination of the issues presented in the case in which the judgment is rendered.

A judgment based on a certain condition does not constitute

res judicata in a suit brought after such condition has ceased to exist.

Statement of Case.

By Act passed in 1833, approved April 1st, 1833, to be found on page 172 of the Session Acts, the Legislature of Louisiana provided for the establishment and incorporation of the Citizens' Bank of Louisiana. The capital of this Bank was to be obtained by means of loans in a manner prescribed by the act, and the subscriptions to the capital stock of the Bank were to be secured by mortgages upon the property of the stockholders, subject to the regulations and provisions prescribed by the act, all of which provisions are very complicated and peculiar, but do not affect the issues involved in this case.

By Section 11 of the act, it was provided that the State should at all times be entitled to a credit with the Bank of at least five hundred thousand dollars to be loaned for such time as the State might require, not exceeding the term granted to the stockholders, on the bonds and obligations of the State to be furnished in such manner as might be provided by law, at an interest not to exceed five per cent. to be paid semi-annually. The same section also pro-

vided for loans to stockholders. So far as we know or are informed, this section does not affect this case, as it is not claimed that the Legislature ever passed any law to carry out this provision, by authorizing the issuance of any bonds or obligations to be pledged to the Bank, or that the State ever enjoyed the benefit of this provision, or that any other Bank would not have been glad to make such a loan on such security, without other consideration than the interest.

Section 14 authorized the Bank to subscribe to the stock of the Lake Borgne Navigation Company, and to become subrogated to all the rights and assume all the obligations of said Navigation Company, and particularly to dig the canal, for which purpose the said Navigation Company had been organized, and which in time was to become the property of the State. Section 15 provided that in case the Company should not have constructed the canal described in the act incorporating the Lake Borgne Navigation Company within eight years of the act incorporating the Citizens' Bank of Louisiana, it should be bound to pay into the treasury of the State the sum of five hundred thousand dollars, in five equal annual installments. There is no pretense that this canal ever was built, or that the five hundred thousand dollars ever was paid to the State in lieu thereof.

Section 30 provided that at the expiration of the charter of the Citizens' Bank of Louisiana as fixed by the act, if it should have acquired the rights of the Lake Borgne Navigation Company as authorized by Section 14, it should deliver up to the State the canals with their appurtenances and dependencies, mentioned in the 15th and 18th sections of the act incorporating the Lake Borgne Navigation Company, Act of 1832, p. 82, approved March 12th, 1832, to which the Bank was authorized by Section 14 to subscribe, etc.; also all roads the Bank might have built, as well as all the machinery, cars for transportation, and all other dependencies thereof, together with all the rights of tolls and all and every other privilege attached thereto, which should then become the full property of the said State.

In consideration of this cession of canals, railroads, etc., or, in lieu thereof, the bonus mentioned in the 15th section of the act, the five hundred thousand dollars to be paid into the State Treasury, Section 30 also provided that " the said corporation shall, during its existence, be exempt in its capital and property which it may acquire by virtue of any of the provisions of this act, from all taxes to the State, or to any parish or corporation, created by law of this State, and this charter shall continue

for and during the space of fifty-one (51) years from the passage thereof." As we understand it, it is not claimed that this provision of the Act of 1833 affects the issues presented in this case, except the contention of the representatives of the Bank based upon the language used with reference to the term of the charter, because it is not pretended that the Bank ever built any canals or railroads, or turned any over to the State, or paid to the State the bonus authorized in lieu thereof, and because the Act of 1836 to be hereafter alluded to changed the exemption, and for other reasons which will be herein assigned.

By act approved January 30th, 1836, to be found on page 16 of the Session Acts of that year, the Legislature of Louisiana made certain changes in and amendments to the Bank's charter, most of which have no bearing on this case. Section 1, in order to facilitate the Bank in the negotiation of the loan authorized by the Act of Incorporation, pledged the faith of the State therefor; Section 2 authorized the issuance of the State's bonds to the Bank, to be endorsed and pledged by it to raise money for its capital; Section 3 provided for the guarantee of these bonds by the Bank; Section 4 provided that the State should have a specified interest in the profits of the Bank, and that "the cap-

ital of said Bank shall be exempt from any tax laid by the State, or by any parish or body politic under the authority of the State, during the continuance of its charter." This exemption took the place of the exemption granted by Section 30 of the Act of 1833. It is claimed that this exemption amounts to a contract, because the profits of the Bank were intended as a compensation therefor, although there is no pretense that the State ever derived any profit, and the representatives of the Bank seem to think that the State's guarantee of its loan, and the State's issue of its bonds for the benefit of the Bank, amount to nothing, and that the interest in the profits could not have been intended for any compensation for those things. The act further provided for the appointment of a certain proportion of the directors of the Bank by the Legislature to guard the interest of the State, and contained other provisions thought to be calculated to protect the interests of the State and public.

Section 10 bound the Bank as a condition to pay a certain sum of money to each of several colleges named, in consideration for which each of said colleges were to educate a certain number of pupils free of charge, but there is no pretense that this provision was ever carried out. By Section 13 these appropriations for the several colleges named were

to be paid out of the profits to which the State was entitled, and only at such time and in such proportions as those profits should be due to the State, but, as before said, no profit ever enured to the State, and no appropriations were made to the colleges. Section 16 repealed "the provisions of the Act of 1833, as well as all laws or parts of laws as may be inconsistent with the present act."

The Legislature in 1852, by Act 141, and in 1853, by Acts 52 and 246, also passed laws in the interest of the Citizens' Bank of Louisiana, but they do not affect the question herein involved, of exemption from taxation, although they are referred to in the pleadings and filed in evidence.

Act 40 of 1874, page 77, provided "that the provision of the 30th section of the act entitled 'An Act to Incorporate the Citizens' Bank of Louisiana,' approved April, 1833, which reads as follows: 'And the charter shall continue for and during the space of fifty-one years from the passage thereof,' be amended and re-enacted to read as follows: 'That the charter of the Citizens' Bank of Louisiana shall continue for and during the space of twenty-five years from and after the time fixed for its liquidation by the said charter and shall expire on the 30th of January, 1911.'" By the provision referred to in Section 30 of the Act of 1833, the

charter of the Bank for fifty-one years expired April 1st, 1884. It will therefore be seen that the Act of 1874 extended the charter for twenty-seven years, less two months, as the extended charter will expire January 30th, 1911.

At the time the Act of 1833 was passed the Constitution of 1812 was in force, and it contained no limitation upon the taxing power; and it may be conceded that the Legislature then had the power to grant an exemption from taxation. But in 1874 the Constitution of 1868 was in force, Article 118 of which reads in part: "Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The General Assembly shall have power to exempt from taxation property actually used for church, school or charitable purposes." The remainder of the article in regard to an income tax, a license tax, poll tax and tax sales do not affect the question here involved. Under that portion of the article quoted, the Legislature did not have the power to exempt the capital or property of the Citizens' Bank. But there is nothing in the Act of 1874, as above quoted, which indicates a Legislative intent to grant any exemption. The only other provision of the Act of 1874 than that quoted merely authorizes the Bank to extend

the State bonds issued in its favor, and the interest warrants issued by the Bank by agreement with the holders thereof.

In 1879 the people of Louisiana adopted a new Constitution. Article 202 provides that "the taxing power may be exercised by the General Assembly for State purposes, and by parish and municipal corporations, under authority granted to them by the General Assembly, for parish and municipal purposes."

Article 203 provides, in part, that; "taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax, and all property shall be taxed in proportion to its value, to be ascertained as directed by law." Artice 205 provides that; "the power to tax corporations and corporate property shall never be surrendered nor suspended by act of the General Assembly." Article 207 provides that; "the following property shall be exempt from taxation, and no other, viz:" The exemptions specified do not include the capital or property of the Citizens' Bank of Louisiana.

Article 234 of the Constitution of 1879 provides that: "the General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter or amend the same, nor pass any general or special law for the benefit of

such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution." Article 235 provides that: "the exercise of the police power of the State shall never be abridged nor so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State." Article 237 provides that: "no corporation shall engage in any business other than that expressly authorized in its charter or incidental thereto, nor shall it take or hold any real estate for a longer period than ten years, except such as may be necessary and proper for its legitimate business or purposes."

In 1880 the Legislature passed an Act, No. 79, page 104, for the benefit of the Citizens' Bank of Louisiana, conferring additional powers upon it, to facilitate it in making settlements, etc. The fourth provision of that act was: "that this act shall not be binding or confer any right upon the Bank, unless accepted within twelve months from the date of this act, and under the conditions prescribed in Articles 234 and 237 of the Constitution, such acceptance to be manifested by the Bank in writing, and filed in the office of the Secretary of State." The act also contained the recital required by Ar-

ticle 48 of the Constitution of Louisiana, showing that the intention of the Bank to apply for the passage of the act had been duly published, and proof thereof exhibited to the General Assembly. In due time the Bank accepted the conditions of the act as required in the above quoted fourth provision, and filed its written acceptance in the office of the Secretary of State.

Under the provisions of the Constitution of 1879, in regard to taxation, the Legislature, at its several sessions, as was deemed necessary, has passed laws levying taxes and providing for their collection. the one in force at the time of the institution of this suit being Act 106 of 1890, and it directed the assessment and taxation of all values, including property, capital and shares of stock, empowering the Assessors or the Board of Assessors, as the case may be, to call on banks and other corporations for returns of their property and the shares of their capital stock and the lists of their shareholders. The City of New Orleans also passed an ordinance directing the levy of city taxes on property and shares of stock. The Citizens' Bank of Louisiana owns property in the City of New Orleans where its domicile is, and also in various parishes of the State. It has always paid taxes on its country property without opposition, the proof in the record showing that

this has been done since 1880, and it was not deemed necessary to go further back. In the City of New Orleans the Bank has paid taxes upon its property, other than its banking house; and sporadic efforts have been made to collect taxes upon the banking house, and upon its capital and upon the shares of its stock, and several suits have been brought to enjoin or enfore the collection of such taxes.

The revenue law of the State provides that when assessors find that property has been omitted from the rolls, they shall assess the same for the current year and for three years back. In pursuance of this provision, in 1892 the Board of Assessors for the parish of Orleans undertook to assess the banking house and shares of stock of the Citizens' Bank in the manner provided by law for all corporations, for the then current year, 1892, and for three years back, 1889, '90 and '91. The Bank filed its bill of complaint in the U. S. Circuit Court for the Eastern District of Louisiana, to enjoin the assessors from assessing and the collectors from collecting said taxes, on the ground that their property, capital and shares of stock were exempt from taxation. They set up the legislation hereinbefore recited as their claim for exemption, and in order to sustain their claim, and to make a show of considera-

tion received by the State for such exemption, they undertook to make it appear that all of the several acts of the Legislature passed in the interest of the Citizens' Bank, were really passed in the interest of the State.

We understand from the position assumed by the Bank in this suit, that it is pretended that the Bank was organized for the interest of the people of this State and not for the interest of its promotors; that the folly of the State in issuing its bonds to the extent of twelve millions of dollars to furnish a capital for the Bank, constituted no favor to the Bank or its shareholders, but was resorted to from the necessities of the people; that the act of the Legislature in exempting the Bank from taxation evidenced no favoritism to the Bank or its shareholders, but was intended as partial compensation for the great benefits to be bestowed upon the State and its people by the Bank, none of which ever materialized, nor are even claimed to have materialized by complainants in this suit; that the charter and the exemption from taxation were granted, not for fifty-one years as specified in the act of 1833, but until such time as the Bank might wind up its business.

It will be observed that no act passed by the Legislature after 1833 made any reference to the term

of the charter, or manifested any intention to extend it, except Act 40 of 1874, and that no act of the Legislature since the act of 1836, has ever made any reference to the exemption from taxation, or manifested any legislative intent to recognize or extend it.

A supplemental bill was filed making the tax collectors of the several country parishes in the Eastern District of Louisiana parties to this suit, and enjoining them from the collection of taxes upon the property of the Bank in their respective parishes. So far as we understand, all the property of the Bank, except its banking house, was acquired in the foreclosure of mortgages.

The State tax collectors, through their counsel, and the City of New Orleans and its Board of Assessors, through the City Attorney, defended the suit. They, of course, maintained, that the exemption had ceased to exist; that under the act of 1836 nothing but the capital was exempt, the exemption therein granted never having been extended to the property nor the shares of stock; that whatever exemption the Bank might have been entitled to it had waived, lost and abandoned by accepting the terms and benefits of Act 79 of 1880; that if not lost by accepting said act of 1880, as provided by Const. Art 237, it had expired on 1st of April, 1884,

fifty-one years after the charter was granted in 1833; that the Legislature of 1874, in extending the charter of the Bank to 1911, did not and could not grant an exemption from taxation during the extended term; that no such intention was manifested in Act 40 of 1874; that if any such intention had existed the Legislature would have had no power to grant or extend the exemption, because such power had been withheld from it by Article 118 of the Constitution of 1868.

In addition to the defense set up against the claim of exemption in the several pleadings filed by counsel for defendants below and appellants here, the attorney for the State Tax Collectors claimed, and prayed for its assessment as part of the costs of the suit to be paid by complainant, the appellant here, ten per cent commission upon all taxes, State, levee district and parish, due by complainant as attorneys' fees for the defense of the suit, in accordance with Sections 56 and 57 of Act 106 of 1890. page 120.

After a hearing on the rule *nisi*, an injunction *pendente lite* was granted; and after trial, judgment was rendered in favor of complainant maintaining their claim for exemption, and enjoining appellants from assessing and collecting the taxes. It will be seen in the written opinion rendered by the learned

Judge of the Circuit Court in granting the injunction *pendente lite*, while professing to respect the principle that exemptions must be strictly construed against the grantee, he goes to the very extreme of latitudinous construction in the interest of complainant, practically maintaining that all the laws on the subject of the Citizens' Bank were passed in the interest of the State; that the Bank is not bound by the waiver of its rights under Act 79 of 1880; and that the State is bound by contract to respect the exemption claimed, so long as the Bank exists, or any bonds issued to it remain unpaid. From this judgment appellants prosecute this appeal.

It will thus be seen that the question presented here for the consideration of this Honorable Court is the exemption from taxation of the capital, property and shares of stock of the Citizens' Bank of Louisiana. There are minor questions raised in the pleadings, as to the form of procedure in the assessment and collection of taxes; but they require no attention. If the exemption is valid, it is useless to consume time with forms of procedure; and if the exemption does not exist and the Bank is liable for taxes, there being no pretense that the mode of procedure violates any guarantee of the Constitution of the United States, no federal question is involved demanding the attention of this Court.

Argument.

I.

Res Adjudicata.

Appellees claim that the shares, capital and property of the Citizens' Bank are not assessable for taxes under the exemption clause in its original charter and the Act of 1774 extending it, and claim that this question is now *res adjudicata* under 32 An. 239, and four judgments of the Civil District Court. (Trans. pp. 193, 204). There are three reasons why the first decision in 32 An. cannot be so considered:

1st. Because in that decision it was not necessary to decide upon the constitutionality of the tax, as it is claimed is done in the decision refusing the rehearing, because in the original decision of the case, the case was decided adversely to the State Tax Collector, "because the assessment has not been made according to law, and it is a nullity," 32 An. 244. That was conclusive. The Supreme Court of the United States in 5 Wallace, 592, in defining *res adjudicata* says: "It must appear by the record of the prior suit that the particular controversy was *necessarily* tried and determined, that is if the record of the former trial shows *that the verdict could not have been rendered without deciding the*

particular matter, it will be considered as having settled that matter as to all future actions between the parties. * * * *But even where it appears from the intrinsic evidence that the matter was properly within the issue controverted in the present suit, if it be not shown that the verdict and judgment necessarily involved its consideration and determination, it will not be concluded.*" This definition is cited with approval by all the text writers, and is generally accepted as correct. The italics are our own.

2d. Because that opinion was rendered in regard to Section 1, par. 8 of the Revenue Law of 1878, Act No. 8, and this suit involves the Act of 1888 as amended by the Act of 1890. The decision was also rendered in 1880, four years before the original charter of the Bank expired, and at a time when the Bank was undoubtedly entitled to an exemption on its capital stock. The appellants here are different officers from those in 32 An.; the cause of action is laid under a different statute, a different assessment, and the issues of law and fact in regard to the exemption are different from those in that case. In 161 U. S. 192, the Supreme Court says: "We do not think that the plea of *res judicata* can be upheld upon the facts stated. The former judgment was entered in an action commenced long

prior to the Act of 1887, to recover taxes alleged to have become due while the corporation plaintiff in error was engaged in its original business of an insurance company, and the judgment was upon the right of its shareholders to be exempt from any further taxation than that provided for in its charter while the company was doing business as such insurance company. The judgment could therefore not be an estoppel or operate in any manner as a bar to the maintenance of this action based upon facts of a totally different nature, and arising long after the judgment was obtained in the former action."

3rd. In that decision in 32 An., the Court pointedly said, p. 242, "Numerous decisions of the highest authority, maintain that the exemption of the capital of a Bank does not impair the right of the State to tax the shares in the hands of the stockholders; and without so deciding absolutely, we shall assume, for the purposes of this case, that the charter exemption of the capital of the Bank does not extend to the shares in the hands of the stockholders. See McCullogh vs. Maryland, 4 Wheaton, 4 Com. Rep. 490, 491. Union Bank vs. State, 9 Yerger, 490; Van Allen vs. Assessors, 3 Wallace, 583, 584; People vs. Commissioners, 4 Wallace, 258; Bradley vs. People, 4 Wallace, 462; Bank vs. Common-

wealth, 9 Wallace, 359; Lionberger vs. Rouse, 9 Wallace, 473; Farrington vs. Tennessee, 5 Otto, 687." The question now presented to the Court is whether the Bank can be made to pay the assessments on shareholders' capital and property since the expiration of their charter in 1884.

What we have hereinabove said in regard to the plea of *res adjudicata*, founded on the final decree in the Bouny case in 32 An., is applicable in great part to the decisions in the Civil District Court. In the case of the Citizens' Bank vs. Board of Assessors, 12,429, Div. B (Trans. p. 193), the taxes involved were those levied for the year 1884, prior to the expiration of the charter of the Bank. So that all we have said in regard to the 32 Annual decision is equally applicable to the judgment of Div. B. The judgment in Div. A (Trans. p. 184) stands in the same position; the taxes involved being for the year 1880. The same can be said of the case of Citizens' Bank of La. vs. Charles Cavanac, State Tax Collector, No. 20,669 (Trans. pp. 197 and 198), the taxes involved being for the years 1874, 1875 and 1876, years long prior to the expiration of the original charter in 1884. In the case of Citizens' Bank of La. vs. Board of Assessors, No. 19,144, Div. D (Trans. p. 199), the taxes were levied for the year 1886, under Act 107 of 1884, amending

Act 96 of 1882, which contained essentially different principles of taxation, mode of procedure and other details, from the Acts of 1888 and 1890, here in question. The same may be said of No. 20,541, Civ. Dist. Court (p. 201), in which the taxes were levied under the Statute of 1886. All these suits were contested under Statutes, for taxes for years, with State officers, and in many other respects, entirely essentially different from those in the case at bar. We submit, therefore, that this Court must fail to sustain the plea of *res adjudicata* as did the Court *a qua*, because:

1st, those decisions did not involve the identical questions involved here;

2d, the taxes levied were for other and different years from those in contest here.

3d, the Statutes under which they were levied were not the same as those involved in the case at bar.

4th, the parties and attendant circumstances were essentially differentiated from those in the present suit.

If these judgments were *res judicata*, it would have been a very simple thing for the Citizens' Bank to have gone into the State Courts and by the proper proceedings there in the Courts which rendered the judgments in question, the assessments complained

of here would have been cancelled. But they do not have the force and effect of *res judicata* and complainant knows it. Your Honors will find the following endorsement on both of the judgments in question: "No. 36,308, Civil Dist. Court, P'h of Orleans, Filed July 19th, 1892," signed Jas. D. Rankin, D'y Clerk. These endosements mean that the Citizens' Bank in July, 1892, less than one month before complainant's bill was filed in this Court, applied to the Civil District for the Parish of Orleans for an injunction, which was then and there refused. Now, if these judgments have the force claimed for them, why did not the complainant seek its remedy in the State Court? Why was the injunction refused by that Court? On this question of *res judicata* we refer your Honors to the case of Louisville and Nashville R. R. Co. vs. Palmes, Collector, 109 U. S., page 245, in deciding which the Court held: "That the federal question before the Court is, whether the State Court gave effect to a State law which impairs the obligation of a contract; in deciding which and determing whether there was a contract, the Court is not necessarily governed by previous decisions of the State Court, except where they have been so firmly established as to constitute a rule of property." In the body of the opinion of the Court, on pages 255 *et seq.*, appear the following para-

graphs: "It has, however, been earnestly urged upon us in argument by counsel for the plaintiff in error, that the Supreme Court of Florida, in the case of Gonzales vs. Sullivan, 16 Fla. 791, explicitly decided in opposition to the views we have expressed that the railroad and property, the subject of this litigation, then held by Pensacola and Louisville Railroad Company, were exempt from taxation according to the terms of the provisions of the Internal Improvement Act of 1858; and it is pressed upon us as a conclusive determination of the law of Florida upon the point, particularly authoritative in the present case, for the reason that the plaintiff in error, having subsequently to that decision acquired its title, may be presumed to have acted upon the faith of it.

"The presumption is not pressed, however, to the extent of establishing a contract between the plaintiff in error and the State of Florida, the obligation of which has been impaired by any law subsequently passed, nor of working an estoppel against the State as *res judicata*, with an equivalent effect. The decision cited, therefore, cannot be allowed any greater effect as an authority than ought to be given in cases of this description to the judgment of State tribunals.

"The question we have to consider and decide is,

whether in the judgment under review, the Supreme Court of Florida gave effect to a law of the State which, in violation of the Constitution of the United States, impairs the obligation of a contract. In reaching a conclusion on that point we decide for ourselves independent of the decision of the State Court, whether there is a contract and whether its obligation is impaired; and if the decision of the question as to the existence of the alleged contract requires a construction of State Constitutions and laws, we are not necessarily governed by previous decisions of the State Courts upon the same or similar points, except where they have been so firmly established as to constitute a rule of property. Such has been the uniform and well settled doctrine of this Court. State Bank of Ohio vs. Knoop, 16 Howard, 369, 391."

Ohio Life Ins. & Trust Co. vs. Debott, 16 How. 416, 432; Jefferson Branch Bank vs. Skelly, 1 Black, 436; Bridge Proprietors vs. Hoboken Company, 1 Wallace, 116; Burgess vs. Seligman, 107, U. S. 20.

Your Honors will find from the foregoing authorities that the decision of the Supreme Court of Louisiana, and those of the Civil District Court can in no manner control your decision in this case, either as authorities in point or as a rule of law to be followed.

In oral argument below, counsel sought to take advantage of our position in the foregoing contention, to urge the Court to disregard the decisions of our State Courts on the construction of our Constitution, and decide that, although the Constitution of 1868 provided that taxation should be equal and uniform on all property, and restricted the Legislature's power of exemption within narrow and specified limits, it could commute taxes by an onerous exemption. We cannot perceive any advantage to the State in any of the legislation in the interest of the Citizens' Bank, or any consideration for the many favors extended to it; but under the Constitution of 1868, as construed by the Supreme Court, the Legislature could not commute taxes. 28 An. 497, overruling 24 An. 87, Louisiana Lottery Co. vs. City.

The Supreme Court of Louisiana in 28 An. 756, City of New Orleans vs. Lafayette Ins. Co., in deciding that there could be no commutation of taxes by the Legislature, under the Constitution of 1868, said on page 758 of their opinion: "The case of the Louisiana State Lottery Company vs. the City of New Orleans, 24 An. 86, cited by defendant, was not like the case now before the Court. In that case the City claimed no taxes upon the capital of the Lottery Company. The controversy was whether

said Company was liable to take out a license from the city, or whether the city could demand a license from it. Of course there was no want of power in the General Assembly to agree, in consideration of a certain sum, to exempt said company from all licenses, State and municipal, because in regard to licenses there was no constitutional restriction or limitation. It is only in regard to taxes. What was said in that decision beyond the issue presented by the pleadings was unnecessary and is not authoritative."

These decisions are binding upon the Federal Courts. It is within the province of the State Courts to construe the State Constitution and laws; and it is the province of the Federal Courts to determine whether these constitutions and laws, as construed by the State Courts, impair the obligation of a contract protected by the Constitution of the United States. The determination of the State Supreme Court that commutation of taxes is not permissible under the Constitution of 1868, is binding against the world; but the Federal Courts have exclusive jurisdiction to determine whether this Constitution, as interpreted by the State Supreme Court, impaired the obligation of complainant's contract. Complainant has come into this Court on that ground and for that purpose alone. It has ap-

pealed to this Court for protection against an alleged impairment of the obligation of its alleged contract with the State; and it is a little strange for it now to rely upon a judgment of an inferior State tribunal, which has nothing to do with this great question presented to the Federal Courts for solution.

Besides, how could such an unpretentious proceeding, brought against subordinate administrative officers, forever conclude the State in the exercise of its sovereign powers of taxation? The proposition is preposterous. The State was not a party to any of those suits, nor is she to this. She cannot be sued without her consent, and she has not given it. The officers made defendant in those suits, as those made defendant in this, had no power to represent the State, except to collect the rolls presently in their hands respectively, and could be enjoined only as to them. Consequently the judgment did not reach beyond the rolls for the specific years in question, and do not constitute *res judicata* in this suit.

We do not wish to be understood as assuming the attitude that it is the duty of each assessor and tax collector in the State to persist in their efforts to collect the taxes of the Citizens' Bank year after year, even in the face of an adverse judgment ren-

dered in a fairly contested case deciding the question of exemption against tne State. But we do seriously contend that this question cannot be settled in any other way. It is a fact, and we believe the record shows it, that the question here presented has never been fully and fairly presented and passed upon in such a manner as to establish a rule of right. Whichever way the question is settled in this suit, it will remain settled, not as *res judicata* against the taxes of future years not involved here, but as a rule of right established by the highest Court of the land, after a full and fair presentation of the questions upon which is based the issue as to whether the Bank is entitled to the exemption claimed.

II.

Exemption vel non.

Appellees argued in the Court below that the Acts of 1888 and 1890, levying the tax are unconstitutional. They say, "the Act is charged to be unconstitutional as impairing the obligation of the contract entered into between the State and the Bank, by which the capital of the latter is exempted from taxation, under the terms of its charter." To this pretension we answer:

(a)

that the Bank has no such exemption, even as to its

capital stock or other property. It is true that under its original charter of 1833, and its amendment in 1836, it did possess an exemption from taxation. Under the latter Act, Sec. 4, p. 17, it was provided that "the capital of the Bank shall be exempt from any tax by the State, or by any parish, or body politic under the authority of the State, during the continuance of its charter." These Acts were passed while the Constitution of 1812 was in force, and in that instrument there was no restriction upon the power of the Legislature to exempt whatsoever property, it saw fit, from taxation. The exemption contained therein was constitutional, and a proper exercise of the legislative discretion in all respects. Under Sec. 30 of the Act of 1833, it was provided that "this charter shall continue for and during the space of fifty-one years from the passage hereof." The Act was approved April 1st, 1833. The charter therefore expired by limitation on the 1st of April, 1884, unless extended by the Legislature. It was so extended by the Act of 1874. This was a legitimate exercise of the power of the Legislature, unless in doing so, it contravened some article of the then existing Constitution, that of 1868.

If any of the provisions of the charter contained grants which the Legislature had no right to give under the Constitution of 1868, those provisions

are stricken with nullity, as being *ultra vires* of the General Assembly. In that Constitution, it was provided, in Article 118, "taxation shall be equal and uniform throughout the State. * * * The General Assembly shall have power to exempt from taxation property actually used for church, school or charitable purposes." Thus, the legislative power to grant exemptions from taxation was confined to "church, school or charitable purposes." It had no power to grant immunity from taxation to the Citizens' Bank or any other corporation outside of "churches, schools or charitable purposes." Cooley's Constitutional Limitations, 6th Ed., p. 632; 27 An. 377, 646, 648; 31 An. 440, 519, 637, 827; 32 An. 104, 1137; 35 An. 340; 28 An. 557; 36 An. 434.

"Where the State Constitutions provide the general classes of property, which may be exempted, such as charities, property devoted to educational and elemosynary purposes, the Legislature can make no exemptions outside of such specified classes. R. Co. vs. Miller, 19th W. Va. 40[illegible]; Hogg vs. Mackey (Oregon, 1893,) 31 Pac. Rep. 779. And the provision that all property shall be taxed precludes exemptions by the Legislature. Memphis, etc. R. R. Co. vs. Gaines, 3 Tenn. Ch. 604; Ellis vs. Louisville, etc. R. R., 8 Baxt. Tenn. 530; Memphis, etc.

R. R. Co. vs. Gaines, 97, U. S. 697; State vs. Hannibal, etc. R. R. Co., 73 Mo. 208; N. O. vs. Lafayette Ins. Co., 28 La. An. 756; Chattanooga vs. Nashville, etc. R. Co., 7 Lea Tenn. 361." Eng. and Am. Ency. of Law, Vol. 25, p. 156, N. 1 Constitutional Restrictions.

"Where State Constitutions prohibit such exemptions, the prohibition extends to renewals thereof, as well as the original creation." *Ibid.*, Vol. 4, p. 272 d, and cases there cited in notes 1 and 2.

In one of the cases cited in Note 1, 18 Wallace, 391, a railroad company had been by its original charter exempted from taxation, under a State Constitution, permtting such exemption.

Subsequently the State adopted a new constitution in which it was provided that there should be no exemptions from taxation, except for property used for public schools, or belonging to the United States, the State, counties or municipal corporations within the State. The R. R. was subsequently bought by the State, and resold to other persons, who claimed exemption under the charter. The Supreme Court of the U. S. held that the new constitution forbade the renewal of an exemption from taxation as much as it did the creation of one in an original form.

This case, Trask vs. McGuire, 18 Wall. 391, presents a stronger case than the one at bar.

The St. Louis and Iron Mountain Railroad Company was created by the Legislature of Missouri in 1851, and was exempt from taxation. The State had a mortgage or lien on the road and appurtenances. In 1865, a new constitution was adopted by the people which withheld from the Legislature the power to grant exemptions from taxation. By an ordinance attached to and made part of the constitution the Legislature was directed to foreclose the State's mortgage upon this and other roads named; was authorized to buy them in for the State, if necessary, and was empowered to sell them again, and left free to fix the terms of sale, except that a lien must be retained to secure any unpaid part of the price.

In pursuance of this constitutional ordinance a law was passed in addition to the general law of 1851 as amended in 1853, providing for the foreclosure for the purchase of the road, and for its resale. Under this Act, the Governor advertised the road for sale with its rights and privileges; the commissioners appointed for the purpose bid on the property for the State. Subsequently the road and its appurtenances were sold to three parties, who subsequently sold to another. This last purchaser,

with others, in July, 1867, became incorporated under the same name of the St. Louis and Iron Mountain Railroad Company. To it, Allen, the owner, transferred all the rights and privileges acquired by him from his vendors and all which they acquired from the State.

Trask filed a bill in the U. S. Circuit Court against McGuire, Collector of State and County Taxes in St. Louis, to restrain him from collecting taxes upon the property of the company and to have it decreed to be exempt from taxation. In its decision the U. S. Supreme Court say: "The act under which the sale was made provided that the purchasers of the road should have all the rights, franchises, privileges and immunities which were enjoyed by the defaulting company under its charter and laws amendatory thereof. * * * The new company thus acquired all the immunity from taxation which the original company had possessed, if it were competent for the Legislature at the time, under the new Constitution, to confer this privilege. The question, therefore, is, whether the Legislature was competent to grant the immunity claimed * *."

After quoting the provisions of the Article of the Constitution on the subject of taxation, the Court proceed to say: "These provisions require no explanation; they are absolute prohibitions against the

grant of any new immunity from taxation, unless the railroad companies of the State existing at the time are excepted from their operation."

Such exception was claimed under the constitutional ordinance before referred to. This ordinance and arguments of plaintiff based thereon are fully set out in the opinion, in which it was pretended that under the ordinance the Legislature was not bound by the provisions of the Constitution in fixing the conditions of the sale. Then the Court proceeded to say:

"It seems to us that the plain meaning of the ordinance, when it says that the General Assembly shall provide by law in what manner the railroad and its franchises shall be sold, is that it shall be sold in conformity with such law as the Legislature may constitutionally pass, not in conformity with any law which the Legislature could devise if it had unlimited discretion in the matter. It would conflict with well-settled rules of construction to hold that the language used authorizes any legislation regardless of the provisions of the Constitution. And there is nothing in the authority conferred to provide for the sale of its franchises with the road of the defaulting company, which requires immunity from taxation to be embraced within them. The language evidently refers to such fran-

chises as are essential to the operation of the road sold, without which the ownership of the road would be comparatively valueless, such as the franchise to run cars, to take tolls and the like.

"But if we are mistaken in this particular, we are clear that it never was intended by the ordinance to sanction, by the sale of the franchises of a defaulting corporation, the renewal of an exemption which had once ceased to exist, and which the Constitution had declared should never thereafter be created. The inhibition of the Constitution applies in all its force against the renewal of an exemption equally as against its original creation; and this inhibition the Legislature could not disregard in providing for the sale of the property which it had purchased."

In 109 U. S. 214, the Supreme Court of the United States reiterated the principles of the case in 18 Wall. 391. The railroad, franchises and immunities of a corporation exempt from taxation under the Internal Improvement Act passed by the Legislature of Florida in 1858, were acquired by another company under the authority of an act passed in 1872, which specially recognized the exemption in the new company; but the Supreme Court held that the Legislature had no power to grant or continue an exemption from taxation, by

reason of the provisions of ths Constitution of the State adopted in 1868. The Court specially endorsed the doctrine that such a constitutional inhibition extended to the renewal as well as to the original creation or grant of an exemption.

Where a charter was granted to a corporation containing an exemption from taxation, but the corporation was not organized under the charter until after the adoption of a Constitution under which the Legislature did not have the power to grant the exemption, the corporation is not entitled to the exemption. 161 U. S. 193.

Where a corporation, by its charter is exempt from taxation, and another company is authorized to "organize with all the forms, officers,terms, powers, rights, reservations, restrictions and liabilities given to and imposed upon" the former, the latter is not exempt from taxation. 161 U. S. 198.

It seems unnecessary to enlarge upon so well established a principle and proposition that if the Louisiana Legislature could extend the charter of the defendants, it could not in granting such an extension, also grant a new exemption, from taxation, or renew an old and existing exemption, in contravention of the prohibition contained in the then existing Constitution of 1868. Defendant cannot claim exemption under its original charter, as

it expired by limitation in 1884. It cannot claim immunity under the Act of 1874, even if the Legislature so intended, because that portion of the act is unconstitutional. 36 An. 434; 28 An. 757.

Ergo, the Bank has no exemption. Besides this, the Constitution of 1879, adopted prior to the expiration of the original charter, contained in Article 234, provided that "the General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter or amend the same, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall hereafter hold its charter subject to the provisions of this Constitution."

In 1880 the Bank applied for a special act for its relief, which was passed as Act No. 79, and the relief granted and acted on by the Bank, under the condition prescribed in Articles 203, 205, 207, 234 and 237 of the Constitution of 1879. That Constitution provides in Art. 207, that "the following property shall be exempt from taxation and no other, viz: All public property, places of public worship or burial, all charitable institutions, all buildings and property used exclusively for colleges or other school purposes," etc., and under no class exempted, does this Bank fall.

Art. 203 of the same instrument provides that: "Taxation shall be equal and uniform throughout the territorial limits of the authority levying the tax, and all property shall be taxed in proportion to its value to be ascertained as directed by law;" and Article 205 provides that, "the power to tax corporations and corporate property shall never be surrendered nor suspended by the Act of the General Assembly."

Article 234 provides that, "the General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter or amend the same, *nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution.*" The italics are our own.

Article 235 provides that, "the exercise of the police power of the State shall never be abridged nor so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the State."

Article 237 provides that, "no corporation shall engage in any business other than that expressly authorized in its charter or incidental thereto, nor shall it take or hold any real estate for a longer

period than ten years, except such as may be necessary and proper for its legitimate business or purposes." In 1880 the General Assembly of Louisiana passed a special Act, No. 79, page 104, Session Acts for the relief and benefit of the defendant here, conferring additional powers upon it, to facilitate it in making settlements, etc. The fourth provision of that Act, was: "that this Act shall not be binding or confer any right upon the Bank unless accepted within twelve months from the date of this Act, and under the conditions prescribed in Articles 234 and 237 of the Constitution, such acceptance to be manifested by the Bank in writing and filed in the office of the Secretary of State." In accordance therewith, the Bank filed its written acceptance under these terms and conditions November 6th, 1880. (See Secretary of State's Certificate, Trans. p. 35). By this acceptance as we have seen, the Bank accepted "the conditions prescribed in Articles 234 and 237 of the Constitution;" and Article 234 prescribes that, "the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution." The defendant thus consented to make itself amenable to Articles 202, 203, 205, 207, 234, 235, 237, and all other articles of the Constitution which in any way affected their corporate rights, privileges, immunities,

exemptions and other privileges. It was a voluntary waiver of all pre-existing rights and privileges which in any way were inconsistent with any of the provisions of the Constitution of 1879. It was in the nature of a reciprocal, bilateral, contract between the State and the Bank, by which the General Assembly gave them certain additional powers, on condition that the Bank relinquished and surrendered all rights inconsistent with the provisions of the Constitution of 1879, for the consideration of the State giving them certain additional powers and facilities, not theretofore enjoyed by the Bank, and which they could not have obtained save by the gift and consent of the State. If, therefore, our argument that the Act of 1874, extending the charter, did not extend their exemption taxation beyond 1884, should fall to the ground, and if it be conceded for the sake of argument that the Act of 1874 did validly extend and renew their exemption from taxation beyond the year 1884, the voluntary acceptance of the benefits of the Act of 1880 effected a waiver of their exemption extension under the Act of 1874. The Bank deliberately bargained and gave away its renewal and extension for the valuable consideration embraced in the additional powers, rights and privileges bestowed upon it in the Act of 1880.

In opposition to this argument, conclusive as it is to our minds, our opponents in the Court *a qua* contended that the application of the Bank for the passage of the Relief Act of 1880 was to be regarded only as the legitimate exercise of a constitutional right, and was not to be considered as any waiver of the then existing rights of the Bank. This claim is based on the constitutional right of the people to peaceably assemble and to apply to the General Assembly for redress of grievances, or other proper purposes. Whence it is attempted to argue that to annex conditions precedent to the granting of relief, would be to deny the right of petition, which would be thereby destroyed, and Article 4 of the Constitution of 1879 be rendered migatory and of no effect. It was contended that Act 79 of 1880 was such a petition as is provided for in Article 4. To this pretension the answer is obvious, plain and conclusive. Act 79 was a special law passed entirely and exclusively at the request of and for the benefit of the Bank. The Bank published the notice of its intention to apply for the passage of the bill, containing the substance of its purport and object in accordance with Article 48 of the Constitution of 1879, which required such notice in case of a special bill. The bill was drafted by the attorneys of the Bank. It contains the recital of the publication.

It provides specifically and definitely for the manner of acceptance of its benefits by the Bank, when passed according to the terms and conditions provided in Articles 234 and 237. The Bank cannot now seriously contend that Section 4 of the Act is an abridgement of their right of petition. It originated with the Bank, was accepted by the Bank when passed, which has since availed itself of the rights and privileges accorded thereunder, and has derived great benefits and advantages therefrom. The Act itself is not an application "for a redress of grievances." The Bank had suffered no injury, detriment or "grievance" at the hands of the State. On the contrary, as appears by the charter of the Bank, and all of the subsequent acts, including that of 1880, the Bank alone had been the beneficiary by the liberality of the State. It had been given every possible chance to succeed. The Act of 1880 is only another instance of the bounty and generosity of the State in allowing the institution to compromise with its mortgage stockholders on advantageous terms. For acquisition of those privileges, advantages and benefits the Bank was willing to forego such rights and privileges as it then held, which were inconsistent with the provisions of the Constitution of 1879. The question involved has been already passed upon in other States in similar cases,

and under Constitutions containing like provisions with our own. In 6th Barr, (Penn. St. Rep.) 382, case was as follows: "The plaintiffs in error were chartered under the Act of 1836, and authorized to erect a lock navigation in the river Monongahela, making amends for the damages thereby occasioned. On the 24th of June, 1839, a supplemental act was passed, in which new privileges were granted; the last section reserving to the Legislature the right to alter, amend or annul the charter in such manner as to do no injustice to the stockholders. It appeared to be conceded this act was accepted by the company. * * * * * * In 1844 it was enacted that the company *shall* make amends for any damages done, or that may be done, to lands and property on the Monongahela river or its branches or tributary streams by overflowing the same." There were other matters of detail which, however, it is unnecessary to mention here as not bearing on the question present. In an action of damages against the company for overflow, etc., the defense was set up that the passage of the Act of 1844 involved "the assumption of the most unwarrantable exercise of power on the part of the Legisleture." It was claimed that the Act was retrospective in its operation, and took away vested rights in the corporation under its charter and added onerous condi-

tions, and was therefore unconstitutional, and that no action for damages would lie. The Court said: "It is evident that *by accepting additional privileges and powers on the terms prescribed in the grant to them, the company surrendered the inviolability of its contract to the discretion of the Legislature.*" (The italics are ours). This decision was rendered under a Constitution of Pennsylvania of 1838, which contained in Article IX, Sec. 20, almost identically the same provisions in relation to the right of petition as Art. 4 of the Constitution of Louisiana.

Again, the Pennsylvania Constitution of 1873, Secs. 2 and 10 of Art. 16, contains the same provision as Articles 234 and 237 of the present Constitution of Louisiana, almost in the same words.

The Court said, in 82 Penn. St., 524, construing the 2d Section of Art. 16. "This section is so comprehensive and clear that nothing is left for surmise or doubt.

Charters of private corporations are left exactly as the new Constitution found them, and so they must remain, *until the companies holding them shall enter into a new contract with the State by accepting the benefit of some future legislation.*" (The italics are our own).

So, in 16 Southwestern, 921, where a street railway after its organization and incorporation ac-

cepted certain provisions of a new city charter, passed subsequent to the organization of the railroad, which were highly advantageous to it, the Court, said:

"Although the plaintiff the Union Depot Railroad Company was incorporated prior to the date when the present city charter took effect, still by accepting the ordinance last mentioned, approved 3d November, 1883, it agreed to and did become subject to Sections 5 and 6 of Article 10 of the charter, and to all ordinances thereafter passed pursuant to those sections. As to those sections of the charter, the plaintiff stands in the same position that it would had it been incorporated, and acquired the right to operate its road on the streets after the charter went into effect. We believe that there is no serious dispute as to these propositions."

Again, in 13 Wallace, 213 (Pennsylvania College Cases), this Court said: "Subsequent legislation, altering or modifying the provisions of such a charter, where there is no such reservation, is certainly unauthorized if it is prejudicial to the rights of the corporators, and was passed without their assent, but the converse of the proposition is true, that if the new provisions altering and modifying the charter were passed with the assent of the corporation, and that they were duly accepted by a

corporate vote as amendments to the original charter, they cannot be regarded as impairing the obligation of the contract created in the original charter," and in the note* some sixteen authorities some of the U. S. Supreme Court and others from the State Courts and Commentators are cited in support of the principle.

But complainant argues that such acceptance only rendered its charter subject to the provisions which relate to corporations.

Such a construction necessitates addition to the words employed by the convention. Article 234, instead of reading "subject to the provisions of this constitution," the meaning of which is unambiguous and perfectly obvious, would be altered to read, "subject to the provisions of this constitution *which relate to corporations.*" The addition of the words italicised, and which would be necessary to support complainant's construction, would be altogether unwarranted. It is a primary rule of interpretation that where a law is clear and free from ambiguity, the letter of it is not to be disregarded under pretext of pursuing its spirit. And this rule as to laws is particularly applicable to constitutions in the framing of which the language employed should, on account of the dignity of these instruments, be presumed to have been carefully perpended and selected.

"In interpreting clauses we must presume that *words have been employed in their natural and ordinary meaning.* As *Marshall*, Ch. J., says: The framers of the Constitution, and the people who adopted it, 'must be understood to have employed words in their natural sense, and to have intended what they have said.' This is but saying that no forced or unnatural construction is to be put upon their language; and it seems so obvious a truism that one expects to see it universally accepted without question; but the attempt is made so often by interested sublety and ingenious refinement to induce the Courts to force from these instruments a meaning which their framers never held, that it frequently becomes necessary to redeclare this fundamental maxim. Narrow and technical reasoning is misplaced when it is brought to bear upon an instrument framed by the people themselves, for themselves, and designed as a chart upon which every man, learned and unlearned, may be able to trace the leading principles of government." Cooley on Constitutional Limitations, Sixth Edition, pp. 73 and 74.

In view of the policy of the State, adverse to restraint upon its taxing power, what reason to infer that the people did not mean that which they so plainly said?

Far more reasonable to presume that the people intended the loss to corporations of any especial privilege, particularly that of exemption from taxation, a privilege of such jealous concern to the State, and which so invidiously segregates the favored corporation from others that bear the burdens of government.

The whole instrument was in contemplation and it was to the provisions of the Constitution and not merely to a portion of its provisions that corporations coming within the scope of Article 234 were to be subjected.

As was said in 82 Penn. St. Rep. 522, in regard to the provision in the Cons. of Penn. almost identical with our own: "The framers of this part of our Constitution were no neophytes in legal science, but masters and teachers, who well knew what they were about, that they intended to introduce a radical change in the law governing corporations is not doubtful."

Aside from the absolute want of power in the Legislature to exempt the property of the Citizens' Bank from taxation, there is no evidence in the Act of 1874 of a legislative intent to grant such an exemption. The act merely extends the charter for twenty-seven years. Our contention is that this only extended the charter with such franchises as

are essential to the banking business; that an exemption from taxation is no part of the banking franchise and was merely a legislative favor; that this could not be transferred nor extended without express legislative permission, which is entirely absent from the Act of 1874, and that it is presumed that the Legislature only intended to extend the charter to enable the corporation to carry on the banking business, and did not intend to grant a continuance of the exemption or immunity from taxation; which is not an essential to the banking business, and constituted no part of the corporate franchises. This is a case exactly in line with others where this Court has held that such exemption did not pass with the transfer or corporate franchises, either with or without legislative permission, in the absence of any language in such legislative permission clearly and unequivocally including such immunity: 18 Wallace, 391.

The exemption from taxation in the charter of a corporation, in case of the sale of the charter and franchises of the corporation, does not pass to the purchaser, who, if he acquired any rights, must hold the charter and franchise subject to the provisions of the Constitution and laws existing at the time of the purchase, and is liable to taxation according thereto. 161 U. S. 161.

Where an Act of a State Legislature confers upon one corporation all the rights and privileges of another, the exemption from taxation enjoyed by the latter is not included among the rights and privileges conferred, and the new corporation is not exempt from taxation. 161 U. S. 174.

Where a corporation exempt from taxation by its charter changes its business under a general or special law, passed after the adoption of a Constitution under which the Legislature had not the power to exempt from taxation, becomes a new corporation, and is not exempt from taxation. 161 U. S. 186.

(c)

Some stress, however, may be laid by our opponents on an expression of the S. C. of La., contained in 48 An. 35, in the opinion on the application for rehearing.

In the original opinion, pretermits any expression of opinion on the exemption *vel non* of the Bank, or the constitutionality of the Extension Act of 1874, or the Act of 1880. The Court says: "it will be unnecessary to notice these defenses, nor will it be necessary to discuss the plea of *res judicata* pleaded by the Bank." But in the opinion on the application for rehearing, your Honors say: "We refrained from stating the effects as to the taxation of

the Bank's capital, in consequence of Act 79 of 1880.

We now do the same, because we think it unnecessary to do so.

We propose to let this question, as to the exemption of the bank's capital rest on the decision heretofore rendered." Italics by us. This casual expression has in some quarters been wrongfully tortured, as we think into a decision that the exemption is still in force. Taking the whole context of the opinions, that is the original opinion, and what follows this expression in the subsequent opinion, we do not think that such a construction and interpretation legitimately follows. We gather from the language of the opinions, taken altogether, that the Court purposely refrained from any determination of that question, as unnecessary to the decision of the issues in that case. We think that this casual expression even if correctly interpreted, so as to confirm the continuance of the exemption, must be regarded as an *obiter dictum*, and even were it not, it certainly cannot stand as a single decision as *stare decisis*. "The decisions heretofore rendered" as we have herein already shown, were rendered before the expiration of the original charter of the bank, and therefore do not apply to exemption since the expiration of the first charter.

The numerous decisions which we have cited herein establish that there can be no legitimate, constitutional extension of the exemption, either under the Constitution of 1868 or that of 1879.

We have purposely forborne touching upon or arguing the peculiar and ingenious reasoning, which the counsel for the Bank advanced and employed in the Court *a qua* in their endeavor to place the Bank beyond the pale of the Constitutions of 1868 and 1879, and the arguments and authorities which we proffered. That specious argument endeavored to establish and show that the Bank was a State institution, having a public character, and a *quasi* public functionary, in which the State was a sort of partner and beneficiary, and was thereby relieved from the obligations and laws governing other corporations; that its charter and exemption were State benefits, and could be extended perpetually if desired by the General Assembly, regardless of Constitutions, laws and agreements and contracts voluntarily tendered by the Bank. His Honor of the lower Court adopted, however, their view. This branch of the argument here, we leave to the counsel for the City of New Orleans, who we confidently assume will expose the fallacies involved in those propositions.

It having been agreed by counsel in this case, and

in No. 483 of the docket of this Court, State of Louisiana ex rel. the Citizens' Bank of Louisiana, plaintiff in error vs. The Board of Assessors for the Parish of Orleans, the City of New Orleans et al., said agreement being filed herein, that these two cases shall be argued together, we present this brief and the short one in 483, as applicable in part to both cases.

All of which is respectfully submitted.

M. J. CUNNINGHAM,
Attorney General.

F. C. ZACHARIE,
Atty. for Board of Assessors and Tax Collectors of the Parish of Orleans.

ALEX. PORTER MORSE,
Of Counsel.

Office Supreme Court, U. S.
FILED.
JAN 18 1897
JAMES H. MCKENNEY,
CLERK.

167

Supreme Court of the United States.

OCTOBER TERM, 1896.

No. 108.

THE CITY OF NEW ORLEANS, THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS, ET AL., APPELLANTS,

vs.

THE CITIZENS' BANK OF LOUISIANA.

BRIEF IN BEHALF OF THE CITY OF NEW ORLEANS.

SAMUEL L. GILMORE,
City Attorney.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

THE L... OF PHILADELPHIA

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BRIEF IN BEHALF OF THE CITY OF NEW ORLEANS.

STATEMENT OF THE CASE.

1. In the year 1833, by an act of the General Assembly of the State of Louisiana approved April 1, the Citizens' Bank of Louisiana was incorporated.

Section 1 of the act fixed the capital of the bank at $12,000,000, to be formed and procured by means of a loan to be made by the directors of the bank.

Section 2 provided for a subscription of $14,400,000, di-

vided into shares of one hundred dollars each, and intended to secure the said loan of $12,000,000, separate books of subscription being required to be kept, one in which persons owning property in New Orleans might subscribe to the amount of $8,400,000, and the other in which owners of property situated in other parishes of the State might subscribe to the amount of $6,000,000: *Provided*, That if the whole amount should not be subscribed in one of the books at the end of the four months during which the books should be first opened, then all persons, wherever their property was situated, might fill up the subscriptions to their full amounts.

Section 3 provided that all subscriptions to the capital stock of the bank should be guaranteed and secured by mortgages, which mortgages should form the basis of and stand as a full security for the loan or loans which the directors were authorized by section 1 to make.

Section 4 provided that to facilitate the directors in obtaining the loan the directors were empowered to issue the bonds of the bank, payable, in equal portions, in fourteen, twenty-three, thirty-two, forty-one, and fifty years from April 1, 1833, each for the sum of $1,000, bearing 5 per centum interest from date until paid, which bonds the directors were authorized to emit and negotiate at not less than par value, and to secure the payment of which the mortgages to be given by the stockholders were to remain as a perpetual pledge to the holders of the bonds until the expiration of the charter and the final liquidation of the affairs of the bank, there being granted to the holders of the bonds at all times the most summary process of the law on

the said mortgages to enforce the payment of the whole or any part thereof in case of non-payment.

Section 5 provided that no bonds should be issued until mortgages were executed for at least one-fifth more in amount than the bonds issued.

Section 7 provided that the mortgages were to be executed on property the value of which should be at least equal to the amount of stock, the property to be lands in cultivation and slaves attached to same, and houses and lots in cities and towns producing revenue, although the mortgages might include other property under certain conditions.

Section 9 declared that the subscribers to the capital stock of the bank were created a body politic and corporate in law, and gave the bank all the powers of such a body.

Section 10 declared that the corporation should possess and enjoy all rights and privileges usually accorded to banks.

Section 11 provided that the State of Louisiana should at all times be entitled to a credit with the bank of at least $500,000, to be loaned as the State might require, not exceeding the term granted to stockholders, on the bonds or obligations of the State; that the stockholders on deposit and pledge of their stock certificates should be entitled to a credit equal to one-half of the total amount of their stock, *provided* that as the stockholders used this credit they should give to the bank their notes or obligations for the amount lent, and pay the interest thereon annually in advance, and *provided also* that the payment of the principal of the sums lent should be so fixed and arranged that at least one year before any partial reimbursement of payment was to be

made of the bonds an equal proportion of the loans to the stockholders should be paid; that all persons to whom loans should be made by the bank on mortgages or who should obtain discounts on mortgages should have the privilege of renewing their notes or obligations annually for ten years, *provided* that at each renewal one-tenth of the principal of the loan or discount, together with interest on the sum renewed, should be paid, so as to finally extinguish in ten years principal and interest; *and provided also* that after the expiration of the thirty-ninth year of the charter the annual payment on such loans or discounts should be so arranged that the whole of said loans or discounts, with interest, should be paid at the expiration of the forty-ninth year of the charter, default in payment of any annual installment at any time to mature and make eligible the entire debt.

Section 14 authorized the bank to subscribe for the whole or a portion of the capital stock of the Lake Borgne Navigation Company, and in case of its subscription to three-fourths of said stock to succeed and become vested with all the powers, rights, and privileges of that company.

Section 15 provided that in case the bank should not have constructed a canal such as was described in the charter of the Lake Borgne Navigation Company's charter within eight years from April 1, 1833, the bank should pay into the State treasury $500,000 in five equal installments, and granted to the bank the right to construct a canal from Lake Borgne, or connecting bayous, to the river Mississippi.

Section 16 gave power to the bank to construct a railroad.

Section 17 provided for the election by the subscribers,

as soon as 12,000 shares were subscribed, of fifteen directors, nine to be always elected from the parish of Orleans and six from other parishes of the State, and who were to elect from their number a president, every stockholder being entitled in this election to one vote each without regard to the number of shares subscribed, the stockholders in future elections of directors to be entitled to one vote for each share held by him at least six months prior to the election, provided the same should not exceed fifty.

Section 18 vested all the powers, rights, and authority of the bank in the president and directors.

Section 22 provided the bank should never suspend specie payment.

Section 28 declared that mortgages granted by the stockholders should remain as a pledge for the final payment of the loan of $12,000,000 and interest until the final payment and redemption of the bonds.

Section 29 provided that all profits made by the bank were to be added to and made part of its capital, except in this: that the directors immediately after the payment of each series of bonds were to divide among the stockholders one-fifth of the profits, if any, made up to that time, after deducting one-fifth of the cost of the roads and canals authorized by the act, and out of the balance of profits the persons residing in parishes other than the parish of Orleans were to receive the proportion to which they were entitled according to their subscription or the loans on mortgages or notes executed by them.

Section 30 provided that at the expiration of the charter of the bank, as fixed by the act, the bank, if it should have acquired the same, should deliver to the State all the canals

mentioned in the charter of the Lake Borgne Navigation Company, together with all roads which the bank might have made, which were then to become the property of the State; that in consideration of this cession, or in lieu thereof, the bonus mentioned in section 15, the bank should during its existence be exempt in its capital and property which it might acquire by virtue of any of the provisions of the act from all taxes to the State or to any parish or corporation created by law of the State, and that the charter should continue for and during the space of fifty-one years from April 1, 1883.

Acts of 1883, pages 172–192.

2. In the year 1836 the Citizens' bank not having, under its charter and upon its own bonds, although 300 of these bonds be issued, been able to obtain the loan of $12,000,000 which was to constitute its capital, an act of the General Assembly of the State of Louisiana, approved January 30, 1836, was passed.

Section 1 declared that in order to facilitate the bank in the negotiation of the loan of $12.000,000 authorized by the act of incorporation of 1st of April, 1833, the faith of the State was pledged for the security of the sum of twelve millions of dollars, or such part thereof as might be required by the bank.

Section 2 provided that bonds for the sum of $3,000,000, with the privilege of extending the same to $12,000,000, should be subscribed to the order of the president and directors of the bank, signed by the governor and countersigned by the secretary and treasurer of State, and under the seal of the State; said bonds to be in series of 14, 23, 32,

41, and 50 years from the 1st of February, 1836, the bonds to be for $144.44 or $1,000 each, as the bank might elect, and to be transferable by the indorsement of the president and cashier of the bank, the indorsement to fix the current money in and the place at which the principal and interest should be paid.

Section 3 provided that for the guarantee of the bonds and interest all the securities granted by the act of incorporation of the bank, and specially by the third and fourth sections of that act, to the holders of the bank's bonds, were transferred to the State and the holders of the State bonds, and that the governor should only emit the State bonds after it was proven to him, by the certificate of the president of the bank, that mortgages had been subscribed by the stockholders of the bank in conformity with its charter for at least one-fifth more than the bonds required, and that both the capital and interest of the bonds should be paid by the bank at the time they should become due.

Section 4 declared that the State should be entitled to one-sixth of the profits of the bank if $12,000,000 of bonds were taken, one-twelfth if $6,000,000 were taken, one-twenty-fourth if only $3,000,000 were taken; which profits were to be paid into the State treasury at the same time and in the same proportion of those belonging to the stockholders, the amount of the State profits to be appropriated to the benefit of free schools, and that the capital of said bank should be exempt from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter.

Section 5 provided that there should be twelve directors,

six to be appointed by joint ballot of both houses of the legislature each year and six elected by the stockholders.

Section 7 repealed sections 14 and 15 of the act to incorporate the bank, the former authorizing the bank's subscription to and its acquisition of the stock of the Lake Borgne Navigation Company, and the latter fixing the penalty for not digging the canal therein described.

Section 8 provided that the books of subscription to complete the capital stock of the bank should, as soon as practicable after the promulgation of the act, be opened for at least $4,000,000, and provided for subsequent openings of the books so as to eventually complete the amount of $14,400,000, and to finally divide the total subscriptions therefor equally between stockholders in the parish of Orleans and stockholders in other parishes of the State.

Section 10 provided that the bank should be bound, as a condition of the act, to pay during the time of its charter $5,000 to each of three colleges—Jefferson college, Franklin college, and Jackson college—the colleges being bound, in consideration of said sums, to receive each ten free pupils.

Section 11 provided that the loans which, under section 7 of the act incorporating the bank, were renewable annually for ten years on annual payments of one-tenth of the capital, together with interest, should be renewable annually for fourteen years upon annual payment of one-fourteenth of original amount and interest.

Section 13 provided that the appropriation by section 10 of the act in favor of the colleges should be paid by the bank out of the profits to which the State was to be entitled, and only at such time and in such proportions as profits should be due the State, the appropriation in favor of the col-

leges not to augment the State's proportion of profits or to diminish any securities given by the act incorporating the bank to the holders of the bank's bonds.

Section 16 repealed the provisions of the act entitled "An act to incorporate the Citizens' Bank of Louisiana," approved April the 1st, 1833, as well as all laws or parts of laws which might be inconsistent with the act.

Section 17 required that the bonds authorized to be issued should be negotiated and sold within two years from the date of their emission for not less than par, otherwise the bonds to be null.

Section 19 declared that no part, section, or clause of the act should go into operation until the whole should have been accepted by the bank and official notice of acceptance given to the governor, and that if notice was not given within fifteen days after its passage the act was to be void; otherwise it was to have the same force and effect as the original charter accorded to the bank.

Acts of 1836, pages 16–24.

3. The acts of April 1, 1833, and of January 30, 1836, were passed under the constitution of the State of Louisiana of 1812, and that constitution contained no prohibition against grants by the legislature of exemptions from taxation, and fixed no limits for the terms for which corporations might be chartered or hold property, real or personal.

4. By act No. 138 of 1842, approved March 22, the directors of the bank on the part of the State were after January 1, 1893, to be appointed by the governor and selected from among stockholders residing in New Orleans.

Acts of 1842, page 396.

5. In the year 1842 the Citizens' bank forfeited its charter, and a decree of forfeiture was rendered against it in the first district court of New Orleans on the 18th October of that year.

Bill of complaint, Transcript, page 4.

Acts of 1852, page 109.

6. In the year 1852, by section 1 of act No. 141, which was finally passed over the governor's objections on 10th March of that year, the bank was relieved from the decree of forfeiture rendered against it, and the conduct and administration of its affairs was restored to the stockholders thereof in the same manner, with the same rights and privileges, to the same extent, and with the same restrictions as if said decree of forfeiture had never been rendered.

Section 2 declared that the act should not take effect until the bank should have restored to the governor bonds of the State to the amount of $800,000, and should have raised by contribution from the stockholders, independently of the means it then had, additional assets for at least $800,000.

Section 4 empowered the commissioners, the appointment of whom was provided for by section 3, to negotiate with the bondholders for the surrender, on such terms as might be agreed upon between the commissioners and bondholders, authorized the commissioners to extend any part of the principal of the debt maturing before August 1, 1856, for not more than five years, and also empowered the commissioners, in order to fully supply the deficiency then existing in the assets of the bank and to form an additional security for its circulation, to call on the stockholders for cash contributions on their stock not to exceed $12 per

share, including the installment already called in, such installments being made payable in sums, at such times, and on such conditions as the commissioners might determine, and to bear 8 per cent. per annum from the date when payable, and to be enforced by executory process.

Section 5 made it lawful for any holder of the State bonds, whether a citizen of the State or not, to become a stockholder in the bank by exchanging his State bonds for bonds of the bank or certificates of stock paid in. The stock to be received was to bear the same proportion to the whole amount of the stock of the bank as the bonds surrendered bore to the whole amount of the outstanding bonds of the State, and the stock to be received was to be transferred to such bondholder out of stock held by the bank or by any stockholder, whose stock mortgage was to be thereupon canceled to the amount of stock transferred by him, leaving, however, the mortgage on his property for any debt or stock loan due.

Section 6 required the acceptance, by a written vote of a majority of the stockholders, of the act before it could take effect. Section 7 provided for an election of five directors, one of whom was to be elected by the stockholders who should have exchanged their bonds for stock for at least $800,000 and four by remaining stockholders, and for the appointment of two directors by the governor, the seven directors thus provided for to form the board of directors of the bank, into whose possession the said bank should then pass, to be administered and conducted according to its charter and under the obligations and restrictions imposed on all banks by the State.

7. Act No. 141 of 1852 was passed under the constitution of the State of Louisiana of the year 1845, which contained the following articles:

Article 122. No corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges.

Article 123. Corporations shall not be created in this State by special laws except for political or municipal purposes; but the legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

Article 124. From and after the month of January, 1890, the legislature shall have power to revoke the charters of all corporations whose charters shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer period than twenty-five years, except those which are political or municipal.

Article 127. Taxation shall be equal and uniform throughout the State. After the year 1848 all property on which taxes may be levied in this State shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied; the legislature shall have the power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

8. In November, 1852, the constitution of the State of Louisiana of 1852 was adopted by the people.

Article 121 of that constitution declared:

"The legislature shall have power to pass such laws as it may deem expedient for the relief or revival of the Citizens' Bank of Louisiana, and the acts already passed for the same purpose are ratified and confirmed, provided that the bank is subject to the restrictions contained in articles 119 and 120 of this constitution."

Article 119 read as follows:

"The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association, or corporation issuing stocks or bonds of any description."

Article 120 read as follows:

"In case of insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association."

The constitution of 1852 also contained an article declaring that taxation should be equal and uniform throughout the State, the language of which, omitting the words "after the year 1848," was identical with that of article 127 of the constitution of 1845.

9. In the year 1853, act No. 246, approved April 28, was passed to authorize the Citizens' bank to convert shares secured by mortgage into cash shares.

Section 1 provided that the board of directors to be elected under the act of March 10, 1852, should have power to raise $1,000,000, by obtaining the payment in cash of ten

thousand out of the one hundred and forty-four thousand shares composing the capital stock of the banks, and authorized the directors to set apart a proportion of the stock held by each stockholder, not exceeding one out of every fifteen shares; which shares so set apart, together with such proportion of stock then held by the bank as would make up ten thousand shares, were to be paid in full at the time and in the manner to be determined by the board in order to constitute a cash stock, provided the mortgages existing against the stockholders to secure the portion of the stock so set apart should not be considered as raised, and the contributions due on the same should remain payable by each of them respectively.

Section 2 declared that those who became owners of cash stock should be designated as the cash stockholders of the bank, and should, besides any annual interest, if any were allowed, which they might receive on the stock so paid in, share in the profits or losses of the bank in the proportion of the amount of said stock paid in to the amount of available assets of the bank, to be estimated and fixed by the board of directors, and on such terms and conditions as the board should determine, the same, when so determined, to be binding on and between the holders of the cash stock and the mortgage stock respectively, provided the profits accruing to the mortgage stock should be divided only at such times, in such proportion, and with such participation of the State as was provided by "the charter of said bank" and the act of January 30, 1836.

Section 3 provided for the opening of the subscription books for the cash stock after thirty days' previous notice of the terms and conditions agreed upon by the directors,

which should be considered as binding upon the subscribers, and also provided the manner in which the subscription should be arranged so as finally to secure subscription to ten thousand shares.

Section 4 amended section 17 of "the charter of the bank" so as to allow to mortgage stockholders in the election of directors one vote on from one to twenty-five shares, thirty votes on from twenty-six to fifty shares, thirty-five votes on from fifty-one to one hundred shares, and on every additional one hundred shares five additional votes, and provided that every holder of cash stock should be entitled to one vote for each share and should be eligible as a director if he owned twenty-five shares at the time of election.

Section 5 required the acceptance of the act, in writing by a majority, in number and amount, of the stockholders of the bank.

Acts of 1853, page 207.

10. On July 26, 1853, the directors of the Citizens' bank by written act declared that—

Whereas by an act of the legislature of this State entitled "An act to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares," approved April 28, 1853, the board of directors elected under the act of March 10, 1852, entitled "An act for the relief of the Citizens' Bank of Louisiana," are authorized to raise one million of dollars by obtaining the payment in cash of 10,000 out of the 144,000 shares composing the capital stock of said bank; and

Whereas the aforesaid act of April 28, 1853, has been "accepted by a majority in number and amount of the

stockholders of the Citizens' Bank of Louisiana," as therein provided; and

Whereas the board of directors elected as aforesaid have, by virtue of the first section of said act of April 28, 1853, set apart, as therein directed, ten thousand shares of one hundred dollars each, making the sum of $1,000,000, to be paid in full at the times and in the manner to be determined by the board:

Be it therefore known that in order to carry into effect the provisions of the above-recited acts the board of directors of the Citizens' Bank of Louisiana have this day agreed upon the terms and conditions hereinafter stated, which shall be and form a compact between the subscribers to the cash stock and the holders of the mortgage stock respectively, the same to be and remain binding on themselves, their heirs, executors, and assigns, pending the duration of the charter of this bank.

The terms and conditions stated were substantially as follows:

First. The owners of cash stock were to be designated as the cash stockholders of the bank, and were to receive no annual interest on their stock, but were to share in the profits and losses of the bank in the proportion of the amount of said stock paid in to the amount of the available banking assets of the bank, to be estimated and fixed by the board.

Second. The board estimated and fixed the assets available for banking purposes at $500,000.

Third. The capital of the bank was divided into two distinct and separate funds, the one to be denominated the "banking department," which was to constitute the movement of the bank, the other the mortgage stock department, which was to represent its dead weight.

The banking department was to consist of the "available banking assets of the bank," which were to be transferred to the banking department on September 1, 1854, and of the $1,000,000 to be raised by subscription to the 10,000 shares of cash stock. This joint fund of $1,500,000 was to constitute the active capital of the bank, and from and after the 1st day of September, 1854, all banking operations (apart from those necessary for the administration and reinvestment of the assets belonging to the mortgage stock fund) were to be carried on with this capital for the exclusive benefit and at the risk of the banking department, cash stockholders and mortgage stockholders to share in profits and losses in proportion to amount of capital furnished by them respectively to constitute said fund.

The mortgage stock department was to consist of the then assets of the bank, after deducting the $500,000, which assets were to constitute the capital of this department.

This fund (reposing on the additional guarantee of $14,000,000 of mortgaged property) was to remain exclusively appropriated to the redemption of the then liabilities of the bank, and from and after September 1, 1854, was to be administered by the board of directors for the sole benefit and at the risk of the mortgage stock, the profits or losses to arise from the working of this fund to belong exclusively to the mortgage stockholders on their 134,000 shares. An officer styled the "controller of the mortgage

stock department" was to keep the accounts, books, and papers of this department.

Fourth. No money collected from any assets of the mortgage stock department was ever to be used by the banking department, but was, when not applied to liabilities of the department, to be reinvested for its account.

Fifth. The banking department was to make advances in cash to the mortgage stock department when funds were needed for the punctual payment of the foreign debt, either by discounting securities of the mortgage stock department or by advancing the funds and reimbursing itself out of the first moneys collected for account of the mortgage stock department. No portion of the capital stock of the banking department was ever to be diverted from its legitimate operations, except as first stated.

Sixth. The $500,000 in assets contributed to the banking department by the mortgage stock department was to form a perpetual pledge from the stockholders of the latter to the stockholders of the former for the advances to be made by the former to the latter, and the $1,000,000 furnished by the cash stockholders was to be a perpetual security to the mortgage stockholders for any liabilities of the banking department, the true meaning of the compact being that the cash stockholders were only to be responsible for the liabilities of the banking department and in proportion as the amount paid in by them bore to the $500,000 contributed by the mortgage stockholders.

Seventh. In consideration of the banking privileges, which are declared *to only expire in 1886*, and to thereafter *inure almost exclusively to the benefit of the banking department*, certain expenses were to be borne by the banking department.

Eighth. The books and accounts of both departments were to be balanced twice a year, when, after declaring such dividend as expedient out of the surplus profits of the banking department, the directors were authorized to set apart a portion of the profits as a reserve fund.

Ninth. The dividends accruing to cash stockholders were to be paid in cash, and the portion belonging to the mortgage stockholders was to be credited and applied to the payment of the liabilities of or reinvested for account of the mortgage stock department.

The profits of the mortgage stock department were only to be divided as provided by the charter and amendatory acts.

Tenth. Cash stockholders were to have no right to require a loan at all, and could never obtain a loan on their stock beyond thirty dollars a share.

Eleventh. In case it became necessary to accept any legislative acts, such acts were to be approved by a majority of both classes of stockholders.

Twelfth. The votes of the stockholders in elections for directors were fixed as provided in section 4 of act No. 246 of 1853.

Thirteenth. The manner in which the cash shares were payable was fixed.

Fourteenth. On the termination of the charter of the bank three commissioners were to be appointed to liquidate the banking department, two to be chosen by cash stockholders and one by the mortgage stockholders. These commissioners were to proceed to a prompt realization of the assets and the discharge of the liabilities of the banking department in order to effect a division of the capital stock, provided that no portion of the $500,000 was to be paid over to the mortgage stock department until all advances made for their account shall be paid to the banking department, but in proportion as the liabilities of the banking department shall have been paid off and the remainder amply secured, the commissioners might proceed to make a dividend on the $1,500,000 capital stock of the same.

Fifteenth. The subscriptions to the cash stock were provided for so as to secure subscriptions to 10,000 shares. (Compact, Transcript, pages 225–230.)

11. Act 214 of 1854, approved March 16, provided, among other things not here pertinent, for two additional directors of the bank to be elected by the stockholders.

12. In November, 1868, the constitution of the State of Louisiana of the year 1868 went into effect. This constitution contained the following article:

Art. 118. "Taxation shall be equal and uniform throughout the State. All property *shall* be taxed in proportion to its value, to be ascertained as directed by law. The

"General Assembly shall have power to exempt from taxa-
"tion property actually used for church, school, or charita-
"ble purposes. Tho General Assembly may levy an income
"tax upon all persons pursuing any occupation, trade, or
"calling. And all such persons shall obtain a license, as
"provided by law. All tax on incomes shall be *pro rata* on
"the amount of income, or business done. And all deeds
"of sale made, or that may be made, by collectors of taxes,
"shall be received by courts in evidence as *prima facie* valid
"sales. The General Assembly shall levy a poll tax on all
"male inhabitants of this State, over twenty-one years old,
"for school and charitable purposes, which tax shall never
"exceed one dollar and fifty cents per annum."

13. In the year 1873 act No. 45, approved March 11, was passed.

Section 1 authorized the directors of the Citizens' bank to call on the mortgage stockholders for such contributions on their stock as the directors might deem necessary to assure prompt payment of the interest on the State bonds issued in favor of the bank, payable in such sums, at such times, and on such conditions as the directors might determine, the contributions to bear 8 per cent. interest per annum from the time they were made payable, provided no call should exceed two dollars a share in any one year, the payment of the same to be secured by executory process.

Section 2 provided that on the resale by the bank of property acquired under foreclosure of stock mortgages the board of directors could sell the same with or without the stock attached thereto, but all moneys derived from the operations of the act were to be exclusively applied to the

payment of the State bonds and the interest coupons thereon.

Acts of 1873, page 97.

13. In the year 1874 act No. 40, approved March 11, was passed. This act was as follows:

No. 40.

"AN ACT to amend and re-enact section thirty of an act entitled An act "to incorporate the Citizens' Bank of Louisiana, approved April 1, "1833, to extend the charter of said bank, and to authorize the exten- "sion of the State bonds and interest warrants falling due after the "passage of this act.

"Whereas, by reason of the great loss suffered by the "agricultural interest of the State in consequence of the "late war, it would be ruinous for the stockholders to pay "within the next thirteen years, before the limitation of the "charter of the Citizens' Bank of Louisiana, the amount of "arreared installments and interest due by them, as well as "the balance of their indebtedness; and whereas the sacri- "fice of the lands mortgaged for the payment of the State "bonds issued in favor of the bank would endanger the se- "curity of the State; and whereas it is the interest of the "State that a prolongation of the charter of the Citizens' "Bank of Louisiana be allowed, so as to enable said institu- "tion to collect the debts due by the stockholders and "thereby facilitate the payment of the State bonds;

"SECTION 1. *Be it enacted, by the senate and house of repre- "sentatives of the State of Louisiana, in General Assembly con- "vened,* That the provision of the thirtieth section of the act "entitled An act to incorporate the Citizens' Bank of Lou- "isiana, approved April 1, 1833, which reads as follows: "'And the charter shall continue for and during the space "'of fifty-one years from the passage thereof,' be amended "and re-enacted as follows: 'That the charter of the Citi-

"'zens' Bank of Louisiana shall continue for and during the "'space of twenty-five years from and after the time fixed "'for its liquidation by the said charter, and shall expire "'on the thirtieth of January, 1911.'

"SEC. 2. *Be it further enacted, etc.*, That the Citizens' Bank "of Louisiana, through its board of directors, be and is "hereby authorized to extend, with the consent of the "holders thereof, all the State bonds issued in its favor "under the second section of the act entitled An act "amendatory and supplementary to the several acts rela- "tive to the act to incorporate the Citizens' Bank of Lou- "isiana, approved January 30th, 1836, now outstanding, as "well as all interest warrants issued by said bank, falling "due from and after the passage of this act, to such time "and on such conditions as may be agreed upon with the "holders of said bonds and interest warrants, provided said "extension be not made for a longer period than twenty- "five years from the respective maturities, and at no higher "rate of interest than the said bonds now bear.

"SEC. 3. *Be it further enacted, etc.*, That the present act "shall be in force from and after its passage, any law to the "contrary notwithstanding.

"(Signed) CHARLES W. LOWELL,
"*Speaker of the House of Representatives.*
"(Signed) C. C. ANTOINE,
"*Lieutenant Governor and President of the Senate.*

"Approved March 6, 1874.
"(Signed) WILLIAM P. KELLOGG,
"*Governor of the State of Louisiana.*"

14. In January, 1880, the constitution of the State of Louisiana of the year 1879 went into operation.

This constitution contains the following:

"Art. 203. Taxation shall be equal and uniform through- "out the territorial limits of the authority levying the tax,

"and all property shall be taxed in proportion to its value, "to be ascertained as directed by law; provided, the assess- "ment of all property shall never exceed the actual cash "value thereof; and provided further, that the tax-payers "shall have the right of testing the correctness of their "assessments before the courts of justice. In order to arrive "at this equality and uniformity the General Assembly "shall, at its first session after the adoption of this consti- "tution, provide a system of equality and uniformity in "assessments, based upon the relative value of property in "the different portions of the State. The valuation put "upon property for the purposes of State taxation shall be "taken as the proper valuation for purposes of local taxa- "tion in every subdivision of the State."

"Art. 207. The following property shall be exempt from "taxation, and no other, viz: All public property, places of "religious worship or burial, all charitable institutions, all "buildings and property used exclusively for colleges or "other school purposes, the real and personal estate of any "public library and that of any other literary associa- "tion used by or connected with such library, all books "and philosophical apparatus, and all paintings and statuary "of any company or association kept in a public hall; pro- "vided, the property so exempted be not used or leased for "purposes of private or corporate profit or income. There "shall also be exempt from taxation household property to "the value of five hundred dollars. There shall also be "exempt from taxation and license for a period of ten years "from the adoption of this constitution, the capital, ma- "chinery and other property employed in the manufacture "of textile fabrics, leather, shoes, harness, saddlery, hats, "flour, machinery, agricultural implements and furniture "and other articles of wood, marble or stone; soap, stationery, "ink and paper, boat building and chocolate; provided,

"that not less than five hands are employed in any one "factory."

"Art. 234. The General Assembly shall not remit the "forfeiture of the charter of any corporation now existing, "nor renew, alter or amend the same, nor pass any general "or special law for the benefit of such corporation, except "upon the condition that such corporation shall thereafter "hold its charter subject to the provisions of this constitu- "tion."

"Art. 237. No corporation shall engage in any business "other than that expressly authorized in its charter or inci- "dental thereto, nor shall it take or hold any real estate for "a longer period than ten years, except such as may be "necessary and proper for its legitimate business or pur- "poses."

15. In the year 1880 act No. 79, approved April 9, 1880, was passed.

Section 1 provided that the Citizens' bank, in addition to the powers already conferred by law, should have power to compromise and settle the liability of the mortgage stockholders of said bank, said compromises to be made with the assent of the bondholders and when deemed judicious by the bank, provided the same were approved by the directors for the State on such terms as might be agreed upon, and when effected the stock mortgages were to be released and canceled.

Section 2 provided that all sums realized from compromises as well as from the enforcement of the mortgages should be held and applied by the banking department to the satisfaction of the State bonds and to the legal liabilities and necessary expenses of the stock mortgage department.

Section 3 increased the number of directors for the State to five, to be appointed by the governor when the act should be accepted by the bank, these directors to supervise the compromises, which were not to be effected without the approval of the majority of the directors on the part of the State.

Section 4 provided that the act should not be binding or confer any right upon the bank unless accepted within twelve months from its date and under the conditions prescribed in articles 234 and 237 of the constitution, such acceptance to be manifested by the bank in writing and filed in the office of the secretary of state.

Act No. 79 of 1880, page 104.

16. In the year 1880, about the 5th of November, an agreement was entered into between the Citizens' bank and Hope & Co., of Amsterdam, representatives of the holders of the bonds of the State issued under the act approved January 30, 1836. The terms of this agreement were substantially as follows:

Article 1. The bondholders, who were declared to be creditors of the State and of the bank and to have an immediate interest in all the securities granted by the bank in its charter, and which by the act of January 1836 were transferred to the State and to the holders of its bonds, and to whom it appeared, as was also declared, that the State and the bank and the debtors of the State and the bank and of the bondholders who had secured their debts by mortgage were greatly embarrassed, and the funds pledged had deteriorated, consented to act 79 of 1880, which act was declared to have been obtained by the bank from the Gen-

eral Assembly of the State of Louisiana, the act itself being set out in full in the agreement.

Article 2 declared the debt due or to become due on the bonds to be $4,251,555.62, and that the warrants and coupons for interest up to August, 1880, amounted to $2,746,283.80, making a total of $6,997,839.42, besides running interest from August, 1880.

Article 3 provided for the making of an inventory of all property subject to the payment of the bonded debt for the purpose of obtaining a precise and full statement of all the assets to be appropriated to the payment of that debt under the act of the General Assembly and according to the terms of the agreement, this inventory to be placed under the control of the bondholders or their agents.

Article 4. The president and directors of the bank as organized under act 79 of 1880 were to superintend and control the terms of the agreement, to conduct the liquidation of the mortgage stock department, settlements and compromises to be made in the name of the bank, and the banking department was to receive all moneys collected from the property inventoried, which moneys were to be kept separately, and whenever the sum of $50,000 was collected that sum was to be appropriated to the payment of the debt of the State and the bank as shown by the bonds and the interest warrants, the bank to be allowed reasonable expenses for collection.

Article 5 gave authority to Hope & Co., as the mandatory of the bondholders and other creditors, to represent the bondholders and to appoint one or more agents with power to confer with the president and directors in the liquidation, by compromise or otherwise, and no sale, compromise, or

settlement by which any debt or security therefor was to be diminished or discharged was to be valid without the concurrence of these agents, who were also to have the right to examine the bank's books in respect to the liquidation.

Article 6 declared that the bondholders were not to be understood as impairing or releasing any right or claim upon the State as the principal and primary debtor of the bonds, nor against the bank otherwise than was expressed in article 7 of the agreement, and further declared that the bondholders consented to the fulfillment of the object of act 79 of 1880, because the same was designed to relieve the State and the bank and because the liquidation of the mortgaged stock department and the application of the sum to arise from such liquidation to the payment of bonds and interest seemed to be demanded under the conditions which existed.

Article 7 declared that it was known to the bondholders that the bank, under the authority of act 246 of 1853, had established two departments for the care and management of distinct and separate funds and assets, and that the subscribers to the cash or banking department had contributed to form that department, and that the banking business had always been conducted upon the capital so subscribed; that the funds of the mortgage stock department consisted for the most part of mortgages and loans upon a mortgage security which were not available for current banking, and that the banking department claimed that the indorsement and guarantee of the bank of the State bonds did not implicate the separate funds or assets of the banking department for the payment of the bonds, and it was agreed that (the mortgage stock department having received advances

to the amount of $682,430.61 from the banking department for the payment of interest on bonds and expenses of the mortgage stock department, and this sum being due subject to certain credits and the application of certain assets which were wholly inadequate to the payment of that debt) the banking department abandoned all claim for the excess of its advances, and these advances were to be considered settled by the $500,000 of mortgage stock department assets, which were withdrawn to form the capital of the banking department under the compact and constituted the cash stock of the mortgage stock department in the banking department; that the bondholders, in consideration of the engagement taken by the banking department to carry on and conclude the liquidation of the mortgage stock department and to pay over the sums realized to the bondholders regularly and punctually, and to be answerable for any neglect or default in the fulfilling of its engagement, bound themselves never to sue for nor seek to recover from the bank any other sum on its indorsement or on account of the bonds than should be realized from the mortgage stock department, and never to make any claim or demand on the banking department or on its assets for payment of said bonds except for the amount realized from the legal and proper liquidation of the mortgage stock department under the agreement, the agreement, however, not to be construed as impairing the claims of the bondholders against the State, which were declared to be reserved in all their integrity as if the agreement had not been made, the agreement to become obligatory whenever signed by the bank and Hope & Co.

Agreement, Transcript, pages 29 to 35.

17. About the 6th of November, 1880, the Citizens' bank filed with the secretary of state its written acceptance of act 79 of 1880. (Transcript, p. 35.)

18. In the year 1888 act No. 85, approved July 12, was passed, providing for the appointment of a board of assessors for the parish of Orleans and the taxation of all property not exempt by the constitution. In the year 1890, by act No. 106, approved July 9, 1890, act 85 of 1888 was amended. Section 27 of the act of 1888, as amended by section 27 of the act of 1890, is as follows:

"SECTION 27. *Be it further enacted, etc.*, That no assessment shall hereafter be made under that name, on the capital stock of any national bank, State bank, banking company, banking firms or banking association, whose capital stock is represented by shares, but the shares shall be assessed at their actual value as shown by the books of the bank, or banks, to the shareholders, who appear as such upon the books, regardless of any transfer not registered or entered upon the books, and it shall be the duty of the president or other officer to furnish to the assessor a complete list of those who are borne upon the books as shareholders; and all taxes so assessed shall be paid by the bank, company, firm, association, or corporation which shall be entitled to collect the amounts from the shareholders or their transferees; all real estate owned by the bank, company, firm, association or corporation shall be assessed directly to the bank, company, firm, association, or corporation, and the *pro rata* of such direct property taxed, proportioned to each share of capital stock, shall be deducted from the amount of taxes assessed to that share under this section.

"Such assessment shall be made where the bank, etc., is located and not elsewhere, whether the shareholders re-

"side there or not. The said book value shall be ascer-
"tained upon a statement duly sworn to by the president,
"cashier or secretary, and chairman of finance committee,
"or in the absence of such latter officer then by one of the
"directors, showing the assets in detail and the valuation
"placed upon each, and said valuation shall be at a fair
"market value. The sworn statement of the bank's condi-
"tion made next preceding the date of listing shall be the
"basis of assessment. Any president or other officer who
"shall refuse or fail to deliver the said list of shareholders,
"and said statement of book value and of bank's condition,
"within the first twenty days of January of each year to
"the assessor, shall be guilty of a misdemeanor, and on
"conviction shall be punished by fine or imprisonment, or
"both, at the discretion of the court. The district attorney
"will at once act upon any complaint of such neglect or
"refusal made to him by the assessor, or by the board of
"assessors in the parish of Orleans."

Acts of 1890, p. 133.
Acts of 1888, p. 123.

19. On the 14th of December, 1891, ordinance No. 5846, council series, declaring that the rate of taxation for the year 1892 should be fixed at 2.02 per cent. on all real and personal property liable to taxation within the city limits.

Transcript, p. 36.

20. On the 17th of August, 1892, the Citizens' Bank, complainant herein, filed its bill in the circuit court of the United States for the eastern district of Louisiana, alleging that its capital, property, and shares of stock were exempt from all taxation under its charter and the acts amendatory thereof; that the board of assessors for the parish of Orleans had demanded a return of its capital, its property, and the

shares of its capital stock and a list of its shareholders for the purpose of assessment for the years 1891, 1892, 1890, and 1889, claiming authority to so act under the constitution of 1879 and acts No. 85 of 1888 and No. 106 of 1890; that unless restrained or enjoined the State of Louisiana and the city of New Orleans would enforce payment of taxes based on assessments made by said board of assessors and seize and sell complainant's property and the shares of its stock, and that in so far as the constitution of 1879 and acts Nos. 85 of 1888 and 106 of 1890 purported to give such authority they were void as violative of the 10th section of article 1 of the Constitution of the United States, prohibiting all legislation impairing the obligation of contracts, and praying for writs of injunction restraining the board of assessors for the parish of Orleans from making any assessment of the capital or property or shares of its capital stock, and from demanding or insisting upon any return of its capital, property, or stock or shares or lists of its shareholders, and the city of New Orleans and the State tax-collectors of the first, second, third, and fourth collection districts of the city from enforcing or attempting to enforce payment of any tax based on said assessment, and from endeavoring to enforce the same in any manner, and that said injunction may be decreed to be perpetual and the capital, property, and shares of stock of the bank to be exempt from taxation. (Trans., pp. 1 to 7.)

21. On the 7th of November, 1882, the board of assessors for the parish of Orleans and the city of New Orleans filed its answer, denying that the capital, property, and shares of stock of the complainant were exempt from taxation,

and praying that the bill be dismissed, and on the same day the tax-collectors of the first, second, third, and fourth collection districts filed a demurrer to the bill of complaint.

Transcript, pp. 17–27.

22. On the 1st day of December, 1892, Hope & Co. asking leave to intervene in the cause as co-complainant, an order was entered to the effect that the court took the matter of their application under advisement.

Transcript, p. 39.

23. On the same day the rule for injunction was heard and submitted.

Transcript, p. 39.

24. On the 5th of January, 1893, a rule to file a first supplemental bill was entered.

Transcript, p. 39.

25. On the 26th of January, 1893, a decree was entered granting writs of injunction *pendente lite*, restraining the defendants from attempting to collect any tax upon the capital shares of stock or property of the complainant.

Transcript, p. 41.

26. On the 11th day of February, 1893, the first supplemental bill was filed. In this bill complainant alleged its exemption and certain irregularities in the preparation by the board of assessors of supplemental rolls for the years 1889, 1890, 1891, and 1892, complainant claiming certain

deductions, and prayed for a final decree declaring these assessments null and void.

Transcript, p. 45.

27. On the 15th of February, 1893, the board of assessors, the City of New Orleans and the attorney general and the tax-collectors filed an answer to the first supplemental bill.

28. On the 22d of February, 1893, an order was entered refusing leave to file the first supplemental bill.

Transcript, p. 53.

29. On the 1st of March, 1893, the complainant filed a second supplemental bill against certain sheriffs for parishes of Louisiana, other than the parish of Orleans, alleging that the said sheriffs, under color of act 106 of 1890, were about to seize and sell property belonging to complainant and situated in various parishes of the State, which complainant claimed to be exempt from taxation, and prayed for writs of injunction prohibiting the seizure and sale of said property, the original defendants being also made parties.

Transcript, pp. 54 to 56.

30. On the 20th of March, 1893, a decree was entered overruling the demurrer filed on 7th of November, 1892, to the original bill of complaint by the tax-collectors of the first, second, third, and fourth districts of the parish of Orleans.

Transcript, p. 81.

31. On the 29th of May, 1893, the City of New Orleans filed a demurrer to part and an answer to the residue of the second supplemental bill of complaint, the demurrer being

directed to that part of the supplemental bill charging irregularity in the making of said assessments, and the answer denying the exemption from taxation claimed in the supplemental bill.

Transcript, pp. 83 to 85.

32. On the 3rd of June, 1893, the board of assessors, the tax-collectors of the first, second, third, and fourth districts of the parish of Orleans, and the sheriffs of parishes other than New Orleans, filed a demurrer and answer to the second supplemental bill and an answer to the original and supplemental bills, adopting the answer of the City of New Orleans to the original and supplemental bills, and further alleging that, since the incorporation of complainant, State levee taxes had been imposed and levee districts created by the legislature in all the alluvial parishes of Louisiana, with power to levy taxes and force contributions for the purpose of protecting property from destruction by overflow; that complainant's property had been in consequence protected, and that complainant was legally and equitably bound for this tax, and also alleging that the complainant, from 1880 up to 1892, had voluntarily and without protest or objection, except as to valuation, submitted and listed its property for taxation in the several parishes throughout the State, and had voluntarily paid all taxes assessed against it up to and including the year 1891, and in the parishes of East Baton Rouge and Lafourche also for the year 1892.

Transcript, pp. 86 to 88.

33. On the 26th of June, 1893, a final decree was entered enjoining the City of New Orleans and the State tax-collectors of the first and second districts of the parish of Orleans from demanding or collecting or enforcing payment of any and all taxes, whether State or city, for the years 1889, 1890, 1891, and 1892 upon the capital, property, or shares of stock of the shareholders of the bank, whether assessed against the bank or against its shareholders, and the City of New Orleans and said State tax-collectors from demanding, collecting, or enforcing payment in any manner from the complainant, or by seizure and sale of its property, of any license or license tax, whether State or city, for the years 1889, 1890, 1891, and 1892, and that the sheriffs of the various country parishes made defendants be enjoined and prohibited from demanding, collecting, or enforcing payment in any manner of any and all taxes for the years 1889, 1890, 1891, and 1892, whether parish or State, imposed upon any property, real or personal, of the complainant in said parishes, decreeing the assessment of the shares of stock and the property of complainant to be null and void, and recognizing the exemption from taxation claimed by complainant in its original and its second bill of complaint.

Transcript, pp. 278 and 279.

From this decree the present appeal is taken.

ARGUMENT.

I.

At the dates when the assessments complained of in this case were made, the shares of the capital stock of the Citizens' bank and the other property assessed were subject to taxation by the State of Louisiana and the city of New Orleans.

Although it has been denied by one of the justices of the supreme court of Louisiana in his dissenting opinion in a recent case (Hope & Co. *vs.* Board of Liquidation, 43 An., 780), we can admit that the act, approved April 1, 1833, incorporating the Citizens' Bank of Louisiana was, under the constitution of Louisiana of 1812, in force when the act was passed, a constitutional statute. Section 30 of the act of 1833 in terms exempted the Citizens' bank in its capital and in the property which it might acquire by virtue of any of the provisions of the act from all taxes to the State or to any parish or corporation created by law of the State for the fifty-one years during which its charter was to continue.

We must, however, insist that the exemption from taxation accorded to the bank by this act was only to exist during fifty-one years from April 1, 1833, and that there is absolutely nothing to be found in the act justifying in any way an assumption that any relation was created by the act between the bank and the State evidencing a legislative intent to make the exemption one that could be perpetuated at legislative pleasure, and, regardless of subsequent consti-

tutions, as long as the connection between the bank and the State might continue.

It is law so well settled as to need no extended comment that grants under which tax exemptions are claimed must be strictly construed, and that every presumption is against the alleged exemption.

No exemption will be declared upon inference and no extension of the term of an exemption will be made by implication.

Tucker *vs.* Ferguson, 22 Wall., 575.

"The taxing power is vital to the functions of government. It helps to sustain the social compact and to give it efficacy. It is intended to promote the general welfare. It reaches the interests of every member of the community. It may be restrained by contract in special cases for the public good, where such contracts are not forbidden; but the contract must be shown to exist. There is no presumption in its favor. Every reasonable doubt should be resolved against it. Where it exists it is to be rigidly scrutinized, and never permitted to extend, either in scope or duration, beyond what the terms of the concession clearly require. It is in derogation of public right, and narrows a trust created for the good of all."

We extract from the opinion of Mr. Chief Justice Taney, 16 Howard, pp. 435–436:

"The rule of construction in cases of this kind has been well settled by this Court. The grants of privileges and exemptions to a corporation are strictly construed against the corporation and in favor of the public. Nothing passes but what is granted in clear and explicit terms; and neither the right of taxation nor any other power of sovereignty

which the community have an interest in preserving, undiminished, will be held by the Court to be surrendered, unless the intention to surrender is manifested by words too plain to be mistaken. This is the rule laid down in the case of Billings *vs.* The Providence Bank, and reaffirmed in the case of the Charles River Bridge Company."

97 U. S., 666; 98 U. S., 564.
Dennis, sheriff, *vs.* Railroad Co., 34 A., 955.
City *vs.* Robira, 42 An., 1102.
Carrey *vs.* City, 42 An., 1121.

"The well-known and universally prevailing principle "of interpretation, that statutes comprising exemptions "should be strictly construed, is specially emphasized in the "jurisprudence of this State."

43 Louisiana Annual, 1108.

Not only does section 30 of the act of 1833 by its plain language fix, beyond all doubt, the term of the bank's exemption from taxation, but the entire act demonstrates that it was the legislative intent that the bank should cease business at the end of fifty-one years.

The loans which the mortgage stockholders were to obtain, to the amount of one-half of their holdings, were to be returned in proportion to the amount of the bonds to be redeemed, one year prior to the maturities of the five series of bonds, the loans and discounts were to be renewable, annually, for ten years, upon annual payment of one-tenth of principal and interest until the thirty-ninth year of the charter, but then the annual payments thereon were to be so arranged that the whole of the loans or discounts would be paid and extinguished at the expiration of the forty-ninth year of the charter.

Nor was there anything in this act which can be construed into meaning that the bank was to have a public or governmental character.

The bank was to issue its own bonds; its shares of stock were to be held by individuals, and while the State was to have a credit with the bank to the amount of $500,000 and at the termination of the bank's charter was to obtain a canal, or in lieu thereof a bonus of $500,000 and a railroad, the State was obliged, when it wished to borrow money from the bank, to pledge its own securities, and even then could only borrow for the same term as the stockholders, and for the promise of the canal or the bonus, and the railroad, exempted the bank from taxation for fifty-one years.

The claim that the bank has a public character is met by the following citation from Mr. Justice Story's language in the Dartmouth College case, 4 Wheaton, 668, 669:

"Public corporations are generally esteemed such as exist for public political purposes only, such as towns, cities, parishes, and counties; and in many respects they are so although they involve some private interests; but, strictly speaking, public corporations are such only as are founded by the Government for public purposes, where the whole interests belong also to the Government. If, therefore, the foundation be private, though under the charter of the Government, the corporation is private, however extensive the uses may be to which it is devoted, either by the bounty of the founder or the nature and objects of the institution. For instance, a bank created by the Government for its own uses, whose stock is exclusively owned by the Government, is, in the strictest sense, a public corporation. So a hospital created and endowed by the Government for general charity. But a bank, whose stock is owned by private persons, is a private corporation, al-

though it is erected by the Government, and its objects and operations partake of a public nature. The same doctrine may be affirmed of insurance, canal, bridge, and turnpike companies. In all these cases the uses may, in a certain sense, be called public, but the corporations are private; as much so, indeed, as if the franchises were vested in a single person."

The only effect which the act of January 30, 1836, had upon the bank's exemption from taxation was *to restrict the exemption to its capital alone.*

Citizens' Bank *vs.* Bouny, 32 An., 241.

Citizens' Bank *vs.* Board of Assessors *et al.*, 48 An., 36.

The act of 1836 did not extend either the term of the corporate life of the Citizens' bank or the term for which, by the act of 1833, it had been granted immunity from taxation.

The learned judge of the lower court was in error in presuming that because by the act of 1836 the State pledged its faith for the security of the $12,000,000 which had been fixed by the act of 1833 as the bank's capital, authorized the issuance of its own bonds payable to the bank, making the last series mature two years later than the date when, by the act of 1833, the bank's charter was to expire, obtained a transfer, for its own account and that of the holders of its bonds, of the mortgage securities provided for by the act of 1833, and stipulated for an interest in the profits, to be devoted to educational purposes, that the period of exemption declared in the act of 1833 must be construed to be so long as the charter was by subsequent legislation continued in order that the State's bonds might be paid.

There is no reason which can be assigned for giving to the act of 1836 the effect of even extending the bank's charter or exemption to January 30, 1886, when the last series of State bonds were to mature, and it is beyond all possible construction to give to that act the extraordinary meaning the learned judge imputed to it.

It did not become by the act of 1836 at all necessary to extend the bank's charter or the exemption of its capital in order to protect the State on its bonds.

The entire plan for the operation and liquidation of the bank devised in the act of 1833 was left undisturbed by the act of 1836, except that the loans and discounts which under the act of 1833 were renewable for ten years were by the act of 1836 made renewable for fourteen years.

All loans on stock were still to mature one year before the maturities of the series of bank bonds, and all other loans were to mature before the expiration of the forty-ninth year from April 1, 1833.

All the assets of the bank, all the securities of the State and the bondholders, were to be realized upon before the year 1884, and the cash with which to pay the last series of State bonds was to be available before their maturity.

We cannot consider that there existed, at the date of the passage of the act of 1836, any doubt that the State bonds would be promptly paid at their maturities.

In the first place there were the mortgages upon lands and slaves to supply the means of payment in case the loans were not returned and the profits on them not realized, and these mortgages, it is safe to say, would have produced sufficient funds for the purpose if the war had not occurred and part of the property upon which the bank

had loaned its capital, lost its character as such and part been diminished in value.

Beyond this, however; the legislators who passed the act of 1836 could not have meant to so insult their mother State as to have even entertained a fear that when she pledged her faith, her faith would be broken, or that when she gave her promise to pay, her paper would be unpaid.

The bonds which the State issued under the act of 1836 were bonds which were to be paid by the State, if the bank did not pay them, whether the State realized their amount from the bank or not. If the bonds were paid from the security assets of the bank the State was saved from loss of money, but to say that she was to refuse or to postpone payment of these bonds if the bank did not pay them, and the securities were not realized, is to say that the legislators in 1836 contemplated that the State would lose her honor.

Every postponement, as we shall see, of the State's obligations has been at the instance of the bank and with the consent of the holders of the bonds.

We may, however, for the purposes of this argument, concede that the act of 1836, by making the last series of State bonds mature on January 30, 1886, extended until that date the charter of the bank and exemption of its capital from from taxation.

Making this concession—and it is a great one—we give to the act of 1836 the most liberal interpretation that can with any plausibility be placed upon it.

The learned judge who decided this case in the court below was clearly mistaken in his views that the chief object of the bank's exemption from taxation was to facilitate the payment of the State's own bonds; that the exemption was

a reservation of the State's own property from taxation, and that, as the object of the exemption must determine its originally expressed period of exemption, the legislature did not mean what it said, in the act of 1833, that the exemption should last only fifty-one years, and did not even intend to restrict, by the act of 1836, the exemption of the bank's capital until the final maturity of the bonds issued under the act of 1836, but intended that the exemption should go on forever if the bank could induce subsequent legislatures to extend its charter, although these subsequent legislatures did not make and did not have power, under subsequent constitutions, to make any extension of the exemption.

The exemption from taxation, it must be remembered, was originally granted by the act of 1833, three years before the State's bonds were issued, and it was also by the act of 1833 declared that the exemption was granted in consideration of the canal or bonus and railroad which the State was finally to receive.

As the act of 1836 repealed sections 14 and 15 of the act of 1833, the former providing for the bank's subscription to and acquisition of the canal described in the charter of the Lake Borgne Navigation Company, the latter fixing a penalty of $500,000 to be paid to the State in case of its failure to dig the canal, as well as all the provision in that act relating thereto, part of the consideration for the exemption was released and in its place was substituted an interest to accrue to the State in the profits which the bank was then confidently expected to make.

It will be noticed that it was by the same section (4) of the act of 1836, which spoke of the State's interest in the

profits, that the exemption of the bank's capital from taxation was granted.

Unfortunately for the State, all the proposed considerations for her exemption of the bank's capital failed. She never received canal, bonus, or railroad, and can now never hope for profits.

The exemption of the capital of the bank was not an exemption of the property out of which the State's own obligations were to be paid nor a reservation of the State's own property from taxation. The bank's capital was by the acts of 1833 and 1836 $12,000,000, and, as the learned judge of the court below said, it was entirely furnished by the State by the loan of its bonds.

It would have been the same thing practically if the State had loaned the bank $12,000,000 in cash.

The subscriptions to the shares of stock were, by section 2 of the act of 1833, to be for $14,400,000 and were "intended to secure the said loan of $12,000,000," the mortgages, by section 3 of the act of 1833, were to guarantee and secure the stock subscriptions.

Both the stock subscriptions and the mortgages securing them, as far as the original stockholders were concerned, conditional obligations, and the condition upon which they depended was a suspensive one.

It must be remembered that when shares of capital stock in corporations are ordinarily spoken of, the words mean something for which money has been paid, the amounts paid for the shares actually constituting the capital of the corporation, and that, while the capital resulting from the sale of the shares is administered by the corporation, it is,

after the payment of corporate debts, to be finally distributed among the shareholders.

In the case of the Citizens' bank, however, the capital was to be borrowed by the bank, it was to be loaned to the stockholders and to other persons, so that the bank might make profits, and it was to be returned by them to the bank, so that the bank might return it to the lender.

The stockholders were in no way to contribute to the capital, under the acts of 1833 and 1836, but were only to repay the loans they made just as other persons were to do. They were not to pay the amounts of their subscriptions unless the bank lost in whole or in part its capital and could not repay it to the bondholders.

When, by reason of the impairment of the bank's borrowed capital, foreclosures had to be made, and the mortgage shares became, under subsequent legislation, exigible in cash, the money paid by the mortgage shareholders would have constituted capital, and the shares would have been, in the hands of the shareholders, subsequently, taxable if the money paid in had not belonged to the bondholders and if the shares had had any taxable value. In so far as the exemption of the bank from taxation after the passage of the act of 1836, however, was concerned, the exemption was only of the $12,000,000 obtained by the loan secured by the State's bonds and any profits which might be made, the $12,000,000 and profits thereon being the only capital of the bank, the stock subscriptions being only obligations depending upon a condition which had not happened, and therefore without taxable value.

The mortgages granted to secure the stock subscriptions were of the same nature as the stock subscriptions. The

mortgagors, under the acts of 1833 and 1836, were not to pay the amounts for which they mortgaged their property unless the bank could not repay the borrowed capital. On the contrary, the mortgages, under section 4 of the act of 1833, "were to remain as a perpetual pledge to the bond-"holders until the expiration of the charter and the final "liquidation of the affairs of the bank."

The mortgagors owed nothing to the bank; but if the bank failed to repay the borrowed capital to the bondholders, the mortgagors owed the bondholders, the bank being in such event only a collecting agent for the bondholders.

The mortgages, like the stock subscriptions, were not taxable, not because they were capital, not because they were exempt by the acts of 1833 and 1836, but because they were not property in a taxable sense.

To say the shares of stock or mortgages were exempt under the acts of 1833 and 1836 is to say that an exemption of $12,000,000 meant an exemption of $14,400,000.

When by section 3 of the act of 1836 all the securities granted by the act of 1833 were transferred to the State and the holders of her bonds, the character of the shares of stock and of the mortgages did not change. The State was not by the act of 1836 exempting the stock or the mortgages because they were her property, for they were not property at all in a taxable sense, nor was she exempting these securities as property out of which her obligations were to be paid, because these securities were not to be used for payment of her bonds unless the money borrowed by the bank upon her bonds was lost and could not be repaid; she was exempting the $12,000,000 which was to be first obtained upon her bonds and then returned to retire her bonds.

The property upon which the mortgages and stock subscriptions rested was the real security for the repayment of the loan, but this property, although hypothecated to the bank, was not the bank's, but the stockholders' property, and as such always subject to taxation in the names of the stockholders.

The exemption of the bank's capital, to which, under section 29 of the act of 1833, profits were to be added, which exemption was the only one the bank ever had after the passage of the act of 1836, did not exempt real estate belonging to other persons. The broader exemption under the act of 1833 could not even have had such an effect.

The bank itself has never even claimed that the mortgaged property while in the hands of the stockholders was exempt. It has only gone so far as to make the claim, which has but little more merit in it, that this property, when acquired by the bank under foreclosure proceedings, is exempt.

When the State by the act of 1836 provided for the transfer to her and the holders of the bonds, of the mortgage securities, and obtained the right to apply the proceeds of the mortgages to the satisfaction of her bonds in case the bank did not pay the bonds, she did not relinquish her right to tax the owners on the property. The taxes she had a right to impose and collect might be needed to make good any deficiency that might occur between the amounts realized from the mortgages and the amount for which she had pledged her faith.

She had done much by becoming the security of the bank for a loan of $12,000,000 and by exempting this great sum from taxation. It is impossible to conceive that she in-

tended to make a further donation to private persons of taxes for fifty-one or fifty-three years on $14,400,000 of real estate owned by them, only because their property was mortgaged as security for bonds which the bank was to pay.

The next act of importance was act No. 141 of 1852.

While it is a curious fact in the history of the Citizens' bank that this act, being an act renewing a corporate body with banking and discounting privileges, which had forfeited its charter on October 18, 1842, by decree of a competent court, was in direct violation of article 122 of the constitution of 1845, under which it was enacted, to the effect that "no corporate body shall be hereafter created, renewed, or extended with banking or discounting privileges," it is a fact of no importance because of the ratification of act 141 of 1852, by article 121 of the constitution of 1852, which was adopted in November of that year.

The act of 1852 restored to the Citizens' bank only what it had lost in October, 1842, "the same rights and privileges, to the same extent and with the same restrictions as if said decree of forfeiture had never been rendered."

The bank's exemption from taxation was left exactly where the act of 1836 had placed it, without enlargement or restriction. This act needs, therefore, no further notice than the remarks that it was passed, as appears from the preamble, at the instance of the stockholders of the bank; allowed the commissioners, whose election it provided for, to call upon its stockholders, who were then all mortgage stockholders, for a cash contribution not to exceed $12 a share, including the installment already called in, and also authorized the commissioners to extend for not more than five years, with the consent of the bondholders, any part

of the principal of the debt maturing before August 1, 1855.

The next act, No. 246 of 1853, is important because it brought into existence for the first time the particular shares of stock of the Citizens' bank, the *cash* shares, which alone are the subject of the assessments complained of in this suit.

By the plain terms of this act the persons who contributed to the 10,000 cash shares were to share in the profits and losses of the bank in the proportion of the amount of said stock paid in to the amount of the available assets of the bank, to be estimated and fixed by the directors, and on such terms and conditions as shall be determined by the board, the same to be binding on and between the holders of cash stock and the holders of mortgage stock.

The compact of July 26, 1853, carried out the idea embodied in the act of 1853—two departments were formed in the bank, the banking department and the mortgage stock department. The capital of the banking department was to consist of the $1,000,000 in cash to be paid for the cash shares and the $500,000 available banking assets, fixed as such by the directors and contributed by the mortgage stockholders.

All the banking business was to be done by the banking department upon the capital so formed, for the exclusive benefit of the banking department, and the profits and losses of that department were to be shared by the cash stockholders and mortgage stockholders in proportion to the amount of capital furnished by them respectively.

The banking privileges allowed to the Citizens' bank by the act of 1833 were by the compact of 1853 to "inure almost

exclusively to the banking department of the Citizens' bank until the charter should, as the compact recites, expire in 1886."

Here was the creation of a new capital, one entirely distinct and different from the original capital under the act of 1833, one which was not covered by the exemption of the original capital granted by the act of 1836, and which was clearly taxable. Who would have had a right to complain if the legislature had in 1854 provided for the taxation of the shares in the banking department of the Citizens' bank, this new bank which succeeded to the banking privileges of the old institution? Not the cash stockholders surely, because they stood on the same footing as holders of stock in other banks; not the mortgage stockholders either, for while the mortgage stock department contributed $500,000 of its assets, it was to receive advances from and a portion of the profits of the banking department, and had, to the extent of the $500,000, an interest in the banking department which shares in which, unlike the original mortgage stock subscriptions, had a taxable value.

Not even the bondholders could have complained, because the original stock subscriptions and the mortgages securing them were to remain unimpaired, and, which, being accessory and conditional obligations in the hands of the State and in their hands, were untaxable.

To extend the exemption of capital granted by the act of 1836 to capital of a different kind, capital not thought of at the date of that act, is to stretch the exemption beyond its proper limits.

We are not unmindful that the case of the Citizens' bank against Bouny, 32 An., 329, was decided since the passage of

the act of 1853 and the making of the compact of that year, and that there are in the decision expressions to the effect that the capital of the Citizens' bank and the profits to be added to the capital were exempt, and that the bank could not be made to pay taxes against shareholders, because under the act of 1836 profits were not to be divided except as the series of bonds were paid; but we submit that in the Bouny case the distinction now made between the original capital and profits of the Citizens' bank and the capital and profits of the banking department of the Citizens' bank was not called to the court's attention.

As the original opinion in the Bouny case only disposed of the case upon informalities in the assessment, and as the only reason for the refusal to force the bank to pay the taxes against the shareholders given on the rehearing, namely, that the profits of the bank belonged to the bondholders until their bonds were satisfied, ceased by the entire release in 1880 of the banking department by the bondholders to be a reason for the non-payment by the banking department of the tax on the shareholders, the Bouny case is one really not pertinent to this discussion.

Act No. 45 of 1873 should now be noticed only because it authorized the directors of the bank to make calls upon the mortgage stockholders for contributions on their stock, not to exceed two dollars a share in any one year, and also authorized them to resell real estate, acquired under foreclosures, with or without the stock attached; the proceeds to be applied exclusively to the payment of the State bonds and interest.

Act No. 40 of 1874 is relied upon by the complainant as

having extended the term of its exemption from taxation to January 30, 1911.

Yet the act of 1874 was entirely silent on the subject of the bank's exemption, and only provided that the charter of the bank should continue for and during the space of twenty-five years from and after the time fixed for its liquidation by the act of 1833, and that the directors were authorized, with the consent of the bondholders, to extend the outstanding State bonds for a period not longer than twenty-five years from their respective maturities.

Act No. 40 of 1874, in so far as it prolonged the corporate life of the bank, is not impugned by us. On the contrary, we give it all the effect it could have had either by its own terms or by the provisions of the constitution of 1868, under which it was enacted, which was the extension of the bank's charter, this extension, however, necessarily remaining dormant until the date of expiration fixed in the original charter, namely, April 1, 1884, or until or, under the admission made by us for the purposes of this discussion, the 30th of January, 1886.

The contention of complainant, that the act of 1874 continued the exemption from taxation until the end of the extended period of the charter, is utterly untenable. The bank's corporate existence could be prolonged without continuing the exemption, and the legislature which passed the act of 1874 was only dealing with the charter and made no attempt whatever to deal with the exemption.

The complainant cannot draw, from even the language of the preamble of the act, a reasonable inference that the legislature intended by the act of 1874 to extend the term of the bank's exemption from taxation.

It is true the preamble does declare that by reason of the loss suffered by the agricultural interest of the State, in consequence of the war, it would be ruinous for the stockholders of the bank to pay the amount of their arrears of installments and interest and the balance of their indebtedness within thirteen years, and that the sacrifice of the lands mortgaged for the payment of the State bonds would endanger the security of the State, and that it was to the interest of the State that a prolongation of the charter of the bank should be allowed, so as to enable said institution to collect the debts due by the stockholders and thereby facilitate the payment of the State bonds.

There is in this language, however, no expression which can be tortured into meaning that the bank's exemption, on its capital, granted by the act of 1836, was to be extended as well as its charter.

In 1874 the capital of the bank, exempted by the act of 1836, had disappeared, except such part of it as might be recovered on the outstanding stock loans and other loans and discounts; the mortgage shareholders were being forced under foreclosures and by cash assessments under the act of 1873 and previous acts to make good the loss of the bank's capital.

There was no necessity to extend the original exemption from taxation in order to relieve the stock subscriptions and the mortgages securing them from taxation, because without any such exemption they were not taxable.

While in 1874 the condition upon which the mortgagors were to become liable for the payment of their mortgages had happened, the mortgages were not taxable as debts due the bank, for the reason that having been transferred to the

State and the bondholders, the bank was without interest in them, except as a collecting agent; they were not debts due to the bank.

The mortgages, being primarily due the State, and the State, unlike individuals, being free, as a State, from the burden of paying taxes on obligations due to her, were not to be charged with taxes as against the State.

An obligation due the State is a value of the State, just as other property of the State is a value of the State, and is public property, exempt from taxation.

The mortgages were not taxable as against the bondholders, for the reason, among others, that, as far as the bondholders were concerned, they were personal property, taxable only at the domicile of the bondholders.

The shares of mortgage stock would have been taxable in the hands of the shareholders, for at that time assessments had been laid and collections under foreclosures had been made upon the shares; but, as the money realized on the shares went immediately to the State and the bondholders, there was nothing due the shareholders by the bank, and the shares in the hands of the stockholders were without assessable value.

The shares of cash stock created under the act and compact of 1853 were taxable, because, as we have seen, they were never exempt, but the act of 1874 made no reference whatever to them, referring, as it did, to the mortgage stock department alone. If act No. 40 of 1874 had purported to extend the bank's exemption from taxation, it would have been clearly unconstitutional.

Article 118 of the constitution of 1868 positively declared:

"Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. The General Assembly shall have power to exempt from taxation property actually used for church, school or charitable purposes. The General Assembly may levy an income tax upon all persons pursuing any occupation, trade, or calling. And all such persons shall obtain a license, as provided by law. All tax on income shall be *pro rata* on the amount of income, or business done. And all deeds of sale made, or that may be made by collectors of taxes, shall be received by courts in evidence as *prima facie* valid sales. The General Assembly shall levy a poll tax on all male inhabitants of this State, over 21 years old, for school and charitable purposes, which tax shall never exceed one dollar and fifty cents per annum."

These are no uncertain provisions and it is unnecessary to enlarge upon the fact that they left the legislature wholly without authority to allow any exemption from taxation, except upon property actually used for church, school, or charitable purposes.

New Orleans *vs.* Insurance Co., 28 An., 756; 36 An., 434.

Of course, the legislature of Louisiana could not, in 1874, have done indirectly what it could not directly have done—grant an exemption from taxation or commutation of taxes by extending the term of an exemption or commutation allowed under a previous constitution, when it could not by original grant, exempt or commute.

In Trask *vs.* Maguire, 18 Wallace, p. 408, this Court said:

"It seems to us that the plain meaning of the ordinance, when it says that the General Assembly shall provide by law in what manner the railroad and its franchises shall be sold, is that they shall be sold in conformity with such law as the legislature may constitutionally pass, not in conformity with any law which the legislature could devise if it had unlimited discretion in the matter. It would conflict with well-settled rules of construction to hold that the language used authorizes any legislation regardless of the provisions of the constitution; and there is nothing in the authority conferred to provide for the sale of its franchises with the road of the defaulting company, which requires immunity from taxation to be embraced within them. The language evidently refers to such franchises as are essential to the operation of the road sold, without which the ownership of the road would be comparatively valueless, such as the franchise to run cars, to take tolls, and the like.

"But if we are mistaken in this particular, we are clear that it never was intended by the ordinance to sanction, by the sale of the franchises of a defaulting corporation, the renewal of an exemption which had once ceased to exist and which the constitution had declared should never thereafter be created. The inhibition of the constitution applies in all its force against the renewal of an exemption equally as against its original creation, and this inhibition the legislature could not disregard in providing for the sale of the property which it had purchased."

Railroad Co. *vs.* Palmes, 109 U. S., 244.

Shields *vs.* Ohio, 95 U. S., 319.

Bank *vs.* Tennessee, 161 U. S., 161.

Ins. Co. *vs.* Tennessee, 161 U. S., 174.

Bank *vs.* Tennessee, 161 U. S., 186.

As there was nothing, as we have seen, in the acts of 1833 and 1836 to support the theory of the learned judge of the circuit court, that the exemption originally granted was one which, because the State had certain relations with the bank, was impliedly to endure as long as subsequent legislatures might extend the bank's charter, regardless of subsequent constitutions, and as the act of 1874 neither did nor could extend the bank's exemption, the argument of this case might be concluded with the statement that the only exemption the bank ever had after the passage of the act of 1836 was the exemption of its $12,000,000 original capital and the profits thereon, and that this exemption expired in 1884, or, as we admit for argument of this controversy, in 1886.

It is a significant fact well to be noticed in this connection, and one at variance with the theory of the lower court and of the complainant, that the original charter and exemption of the bank were intended by the legislatures of 1833 and 1836 to be such as could be continued at legislative discretion, no matter what regulations subsequent constitutions might make in regard to corporations and taxation, that the board of directors, the mortgage stockholders, and the cash stockholders of the bank and the legislature of 1874 all solemnly declared that the charter of the bank was to expire in 1886.

The compact of July 26, 1853, was prepared by the directors of the bank under the act of 1853, and was assented to by both mortgage stockholders and cash stockholders, and contained the statement in article VII, " In consideration of the banking privileges under the charter, which will only expire in 1886," etc.

Act No. 40 of 1874 in its preamble said that it would be ruinous for the stockholders to pay their indebtedness "*within* the next thirteen years."

Why was such language used if the charter of the bank, with its privileges and exemptions, was to exist for an indefinite period, without regard to subsequent constitutions, at legislative pleasure, as long as any of the securities which were to protect the State on her bonds were uncollected or as long as any relation whatever existed between the bank and the State?

If anything more were needed to confirm the proposition that the Citizens' bank, when the assessments complained of in this suit were made, was entitled to no exemption whatever from taxation, it is to be found in the constitution of 1879, act No. 79 of 1880, the passage of which the bank procured, and the agreement of the bank and the bondholders of October, 1880, in relation to the act of 1880.

It is idle to discuss the articles relating to taxation to be found in the constitution of 1879.

Articles 203 and 204 and 207 speak for themselves and declare that only the property mentioned in article 203, among which no property such as the bank owns is enumerated, is exempt from taxation.

When the bank procured the passage of act No. 79 of 1880 it knew of these provisions in the Constitution, and when, by the agreement of 1880, embodied in the notarial act before Grima of April 27, 1881, the bank and the bondholders accepted the act of 1880, they accepted these provisions.

Act No. 79 of 1880, which was an act in the interest of the mortgage stock department of the bank, authorizing the

making, with the consent of the bondholders, of compromises with the mortgage stockholders, the proceeds to be applied to the payment of the State bonds, and providing for five additional directors for the State, who were to supervise the compromises, by its fourth section declared :

"That this act shall not be binding or confer any right "upon the bank unless accepted within twelve months from "the date of this act and under the conditions prescribed in "articles 234 and 237 of the constitution, such acceptance to "be manifested by the bank in writing and filed in the "office of the secretary of state."

The Citizens' bank by its formal acceptance, filed in the office of the secretary of state, of act No. 79 of 1880, bound itself, both as to its mortgage and stock department, to hold its charter under articles 234 and 237 of the constitution of 1879. By its acceptance of article 237 it bound itself not to hold any real estate for a longer period than ten years, except such as may be necessary and proper for its legitimate business or purposes. By its acceptance of article 234 it bound itself "to hold its charter subject to the provisions of this constitution," and, as articles 203 and 207 were "provisions of this constitution," bound itself to hold its charter under them and to hold all its property subject to taxation.

The Citizens' bank, indeed, without filing its acceptance of the act of 1880 with the secretery of state, would have accepted the act, sufficiently to bind itself, by the agreement of October, 1880, and by making compromises under the act of 1880.

The complainant has contended that such acceptance

only rendered the bank's charter subject to the provisions of the constitution of 1879, relating to corporations.

Even the learned judge of the lower court denied this pretension, and he was so fully convinced that the bank was an institution so peculiarly exempt from taxation that in his final decree he declared it to be exempt from all *license* taxes, although the exemption from such taxes, is not covered by an exemption from property taxes, and although the complainant had not asked for such an exemption.

Such a construction as complainant's necessitates addition to the words employed by the convention. Article 234, instead of reading "subject to the provisions of this constitution," the meaning of which is unambiguous and perfectly obvious, would be altered to read "subject to the provisions of this constitution *which relate to corporations.*" The addition of the words italicized, and which would be necessary to support complainant's construction, would be altogether unwarranted. It is a primary rule of interpretation that where a law is clear and free from ambiguity, the letter of it is not to be disregarded under pretext of pursuing its spirit; and this rule as to laws is particularly applicable to constitutions, in the framing of which the language employed should, on account of the dignity of these instruments, be presumed to have been carefully perpended and selected.

Cooley on Constitutional Limitations, 6th edition, pp. 73 and 74.

The learned judge, however, said, and complainant contends, that the act of 1880 was not a law passed for the benefit of the bank, but one for the benefit of the State;

that it was in no sense the creation of a special right, but rather the recognition of a right already existing, and that therefore, when in passing the act of 1880 the legislature required the bank to hold its charter subject to the provisions of the constitution of 1879, it was doing something it had no authority to do, violating article 5 of the constitution, which provides that "the right of the people peaceably to assemble and petition the Government or any department thereof shall never be abridged," by requiring the bank to surrender privileges, other than those allowed by the constitution of 1879, when the bank was not seeking any amendment to its charter which gave a new or beneficial right.

It does not appear, in the first instance, that the language of article 234 of the constitution of 1879 requires that an amendment to the charter of a pre-existing corporation must be one beneficial to the corporation in order that the legislature in allowing the amendment may compel the corporation to thereafter hold its charter under the provisions of the constitution.

The language of the article is that the legislature "shall "not remit the forfeiture of the charter of any corporation "now existing, *nor* renew, alter, or amend the same, *nor* "pass any general or special law for the benefit of such "corporation, except upon condition that such corporation "shall thereafter hold its charter subject to the provisions "of this constitution."

It certainly is clear that the condition related separately to each of the subjects of legislation with which the article was dealing.

The recognition of the right of petition was never in-

tended to be an obstacle to progress nor arrest the advance of a people in governmental science. The wisdom gathered from experience would be as nothing if the people were not permitted to avail themselves thereof by inserting in their organic law provisions which the lessons of time had shown to be essential as safeguards against the indiscretion or venality of legislatures. Petition may be made, but redress may only be accorded in such manner that the public interest may not suffer. Without the restriction indicated, and many illustrations of its applicability will readily suggest themselves, government would be impossible.

In view of the policy of the State, adverse to restraint upon its taxing power, what reason to infer that the people did not mean that which they so plainly said?

Far more reasonable to presume that the people intended the loss to corporations of any especial privilege, particularly that of exemption from taxation, a privilege of such jealous concern to the State, and which so invidiously segregates the favored corporation from others that bear the burdens of government.

The whole instrument was in contemplation, and it was to the provisions of the Constitution and not merely to a portion of its provisions that corporations coming within the scope of article 234 were to be subjected.

The act of 1880 was, however, a benefit to the bank, which the bank sought, accepted, and under which it acted.

State *ex rel.* Bank *vs.* Assessors, 48 An., 39.

Article 234 of the constitution of Louisiana of 1879 is almost identical with section 2, article XVI, of the constitu-

tion of Pennsylvania of 1873, and section 20 of article I of the same constitution reads:

"The citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes by petition, address, or remonstrance."

In Monongahela Navigation Co. *vs.* Coon, Pennsylvania State Reports (6th Barr), p. 382, the supreme court of Pennsylvania held:

"It is evident that by accepting additional privileges and powers on the terms prescribed in the grant of them the company surrendered the inviolability of its contract to the discretion of the legislature."

16 Southwestern Reporter, 920, 921.
Pennsylvania College cases, 13 Wall., 213.

By the agreement of October, 1880, the mortgage stock department and the bondholders severed the last tie which had existed between the mortgage stock department and the banking department, by the complete release to the banking department of all interest in the $500,000 of mortgage stock department assets, contributed in 1853 to the capital of the banking department, by absolving altogether the banking department from liability, which the banking department had always disclaimed, on the State bonds by agreeing, by article 7, "never to sue for nor seek to recover from the "bank any other sum on its own indorsement or on account "of the bonds than should be realized from the mortgage "stock department, and never to make any claim or demand

"on the banking department or on its assets except for the "amount realized from the legal and proper liquidation of "the mortgage stock department," and by also stipulating, by section 4, to pay reasonable expenses "to the banking department for making collections."

In so far as complainant's claim that the real estate purchased by the bank under foreclosures is concerned, it is, as a separate question, easily disposed of.

This property was never exempt, because it was never part of the bank's capital exempted by the act of 1836; was not even property acquired under the provisions of the act of 1833, for that act did not contemplate the purchase by the bank of the mortgaged property; is no portion of profits to be added to the original capital, and is the property of the banking department of the Citizens' bank to which was never granted any exemption.

State *ex rel.* Bank *vs.* Assessors, 48 An., 35.

Even complainant's banking-house is subject to taxation, for even if it was purchased with part of the bank's original capital the exemption has expired.

II.

The plea of *res adjudicata* requires but little discussion.

The case of The Citizens' Bank *vs.* Bouny, 32d An., 239, was decided in 1880, before the exemption of the bank's capital under the act of 1836 expired. In view of the fact that the Court's attention, as we have shown, was not called, in that case, to the compact of 1853, and the distinction between the original mortgage stock and

the cash stock of 1853, the expressions used in the opinions in that case have no bearing here.

In the opinion on the rehearing of the case the court reserved its opinion as to the taxability of shares in the hands of the shareholders, but held that the bank could not be held for taxes on the shares, because, by the act of 1836, all profits being impounded for the payment of bonds, there were no funds of the shareholders in the hands of the bank with which to pay the taxes, the court not being called upon to notice that by the compact of 1853 profits were to be paid to the holders of cash stock of 1880.

Moreover, the subsequent agreement between the bank and the bondholders, by enlarging the compact of 1853 so as to release to the bank the $500,000 of mortgage stock department assets, placed the taxable quality of the cash shares beyond all question.

The only other judgments involving taxes since 1884 or 1886 are in the suits Nos. 12429, 19144, and 20541 of the civil district court for the parish of Orleans.

The civil district court for the parish of Orleans is composed, under article 130 of the Constitution of 1879, of five judges, and each judge has exclusive control over every cause allotted to him, according to the rules of the court made for the purpose of the assignment of cases.

The decision of one judge on any matter of law, except in so far as it settles the issues in the particular case decided, is not binding on any other judge of the court and, of course, is not binding upon the supreme court of Louisiana. How, then, can such judgments bind this high Court?

Besides, on a question arising under the Constitution of the United States, the judgment even of the supreme court

of the State is not *res adjudicata* as to this Court, else the very purpose for which jurisdiction was conferred upon this Court would be defeated.

Railroad *vs.* Palmes, 109 U. S., 255; 16 Howard, 432.

If any conclusive effect for the judgment in the Bouny case was to be claimed by complainant, it would have been better to have claimed it under the doctrine of *stare decisis*, but, even then, the answer would have been that one, and that one a not fully considered opinion, does not entitle a litigant to claim the benefit of the doctrine.

We therefore ask that the decree of the circuit court be reversed and set aside and that complainant's suit be dismissed.

Respectfully submitted.

SAMUEL L. GILMORE,
City Attorney.

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167-317
JAN 12 1897
J. H. McKENNEY, CLERK.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1896.

No. 108.

THE CITY OF NEW ORLEANS, THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS, AND OTHERS, APPELLANTS,

vs.

THE CITIZENS' BANK OF LOUISIANA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

BRIEF FOR THE APPELLEE.

WM. A. MAURY,
HENRY DENIS,
BRANCH K. MILLER,
For Appellee.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

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BRIEF FOR THE APPELLEE.

This is a bill in equity, filed by the Citizens' Bank of Louisiana for the purpose of enjoining and restraining the City of New Orleans, the Board of Assessors for the Parish of Orleans, and certain named State tax-collectors from assessing, for the purposes of State and municipal taxation, the property, stock, and capital of the said bank, the appellee,

and from enforcing the taxes which it is proposed to levy on such assessments.

The case, as disclosed by the record, is, substantially, as follows: The legislature of Louisiana, desiring to attract capital to the State for the benefit of the planting interest and the city of New Orleans, on April 1, 1833, adopted the somewhat unique plan of chartering a bank, to be called the Citizens' Bank of Louisiana, whose stock subscriptions, authorized to the amount of $14,000,000, were to be secured by mortgages on the improved productive lands of the subscribers and on their slaves, instead of being paid in cash.

These stock-mortgages, as they are called, were to be also the security for the payment of bonds to the amount of twelve millions of dollars, which the bank was authorized to issue and negotiate and the proceeds of which were to constitute its working capital; and it was, furthermore, declared (sec. 4, act of 1833) that the mortgages so given "shall remain as a *perpetual pledge* to the holder or holders of the said bonds until the expiration of this charter *and the final liquidation of the affairs of said bank and the just and true payment and extinction of all the bonds* that may be made and negotiated as aforesaid by virtue of this act," &c., language which, when taken in connection with the recital in the act of 1874, to be referred to again, that "it is *the interest of the State* that a prolongation of the charter of the Citizens' Bank of Louisiana be allowed *so as to enable said institution to collect the debts due by the stockholders, and thereby facilitate the payment of the State bonds*," which, we shall see presently, took the place of the bank's bonds, shows that in the opinion of the legislature the security of the bank and then of the State required that the bank should be kept

up as a working organization so long as any bonds remained unpaid, and the bill avers "that the stock mortgages had no term prescribed for their payment, and it was not until 1873, forty years after the date of the charter, that the legislature authorized *annual calls on the stockholders of two dollars per share*, and these stock-subscription debts and mortgages *to be realized in the protracted method and in the long period indicated by the act No. 45 of 1873*, during which the existence of the bank under its charter *was necessarily implied* and *recognized* by the original charter as well as by the act of 1873, were to be enforced by the bank for the benefit of the bondholders to whom the mortgages were assigned as the provision for payment of the bonds, and the charter declared that this pledge of the mortgages should be 'perpetual' until the full payment of the bonds in principal and interest, and the bank under its charter was to enforce this perpetual pledge." (Rec., p. 2.)

Of the capital thus raised each shareholder had by the charter the right to borrow to the extent of one-half the amount of his subscription on the security of his stock mortgage. In this way the main object for which the bank was established was attained, namely, the application of the proceeds of the bonds to the material development of the State.

But the plan for raising capital on the bank's own bonds, secured as stated, not proving a success, it was superseded, as above intimated, by another, established by the act of January 30, 1836, which authorized the issuing of the bonds of the State of Louisiana itself, for the use of the bank, to the maximum amount of twelve millions of dollars (secs. 1 and 2), the State protecting herself at the same time by making the stock

mortgages as full security for her bonds as they were for those of the bank, already issued to a small amount under the first plan (sec. 3). It was further provided, that "both the capital and interest of said bonds shall be paid by the bank at the time they shall become due." (Sec. 3.)

And it was a feature of the scheme that the loans thus made, from time to time, to the stockholders should fall due at such dates as would make them available for retiring the bonds as they should mature.

Besides the State's interest in the advancement of agriculture and the prosperity of her chief commercial city, she took care to secure to herself a more direct interest in the enterprise by providing in the charter that she should "*at all times be entitled to a credit with the said bank of at least five hundred thousand dollars*" (sec. 11, act of April 1, 1833, and sec. 2, act of March 20, 1839), and should share in the profits of the institution in proportions fixed by the statute and based on the amount of State bonds actually negotiated for the use of the bank, such profits to be "*paid into the treasury of the State*," and the whole amount thereof to be "*appropriated for the benefit of free schools*" (act of Jan'y 30, 1836, sec. 4), saving that the bank is required to pay, out of the profits coming to the State, $5,000 a year during the time of its charter to each of three colleges named. (Act 1836, secs. 10 and 13.)

Under the act of 1836 bonds of the State amounting to seven millions of dollars were negotiated in Europe by the bank and the proceeds thereof, for the most part, lent to the planters of the State on stock-mortgages, and there are now in the hands of *bona fide* holders unpaid bonds thus issued amounting to four millions of dollars, and to work

out their satisfaction the bank has assets amounting to about $500,000, including the stock mortgages.

The interests of the State and her people being thus wrapped up in the bank, it, as other public institutions, was subjected to close supervision. Of its twelve directors six were annually elected by the legislature (act 1836, sec. 5), which, also, reserved the right to name a committee at any time to look into the affairs of the bank and report thereon to the legislature (*ibidem*), and by the same section it is further provided that an outgoing directory shall receive triplicate receipts from an incoming, stating particularly the condition of the bank, one of these receipts to be furnished to each of the presiding officers of the two branches of the legislature, to be "*spread upon the journal of both houses of the General Assembly.*" (See act April 6, 1847, No. 100.) In addition, the most summary legal proceedings to enforce the obligations of the stockholders were authorized. (Acts of 1833, sec. 4, and 1852, sec. 8.)

These and other similar provisions emphasize in a very pointed way the importance of the Citizens' bank as an institution established to make large contributions to the prosperity of the State, and show plainly why it was that the act of 1836 (sec. 4) provided that "the capital of said bank shall be exempt from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter."

Other public considerations induced the provision contained in the previous act of 1833 (sec. 30) exempting "the capital and property" of the bank "from all taxes to the State or to any parish or corporation created by law of this State."

It was provided by the original act (1833, sec. 30) that the charter of the bank should "continue for and during the space of fifty-one years from the passage thereof," but by an act passed on March 6, 1874, reciting, as we have seen, that a prolongation of the bank's charter would "facilitate the payment of the State bonds," it was provided (sec. 1) that the charter "shall continue for and during the space of twenty-five years from and after the time fixed for its liquidation by the said charter, and shall expire on the thirtieth of January, 1911."

It will be perceived, therefore, that the charter of the bank is still in force, and, as its life was prolonged for 27 years for the purpose of "facilitating the payment of the State bonds" in a time of financial disaster, it would seem manifest that the protection of the State required that the extension of the charter should carry with it the exemption from taxation granted by the acts of 1833 and 1836. The career of the bank had been a stormy one, and it was in no condition to bear a new burden in the shape of State, municipal, and parish taxation. Soon after it began business it encountered the panic of 1837, and in 1842 its charter was adjudged forfeited, but in 1852 the legislature remitted the forfeiture and restored the bank to the stockholders on certain conditions. (Acts of 1852, No. 141, sec. 1, and 1853, No. 246.)

In addition to these grounds, the bill refers to several decisions of the courts of Louisiana (Rec., pp. 183–202), to be particularly noticed further on, which, it is claimed, foreclose further question by the State or city of New Orleans as to the right of the bank to be exempt, with regard to its capital and property, from taxation of any kind by the State or any of its agencies. Indeed, the *failure to make*

any assessments or levy any taxes whatever on the bank during the years 1889, 1890, and 1891 is properly referred to by complainant as of itself conclusive to show, at that time, at least, a general submission to those decisions.

The bill therefore charges that the provisions of the acts of 1833 and 1836, exempting the capital and property of the bank from taxation of every description, constitute a contract protected from impairment by section 10 of article 1 of the Constitution of the United States, and that the attempt made by the Board of Assessors for the Parish of Orleans and by the City of New Orleans and the State tax-collectors for the first, second, third, and fourth collection districts of the parish of Orleans to assess for taxation by the State, city, and parish the capital stock and the property of the bank situate within the city and parish, as a basis for enforcing against the bank the payment of taxes for the years 1889, 1890, 1891, and 1892, amounting in the aggregate to over $6,000, is to give such an effect to the tax laws and ordinances of the State, parish, and city respectively as necessarily violates and impairs the said contract between the State and the bank, to the serious injury of the State and of the numerous bondholders who parted with their money on the faith of the bank's immunity from taxation.

SUPPLEMENTAL BILL.

On March 1, 1893, the bank filed a supplemental bill, of the same tenor as the original, for the purpose of enjoining and restraining the sheriffs of certain parishes from enforcing against the property of the bank taxes illegally assessed

against it on its property situated in said parishes, in violation of its contract right of exemption. (Rec., p. 54.)

Restraining orders were issued under both bills against the defendants therein named.

THE DEFENSE.

The defense set up to the case made in the original bill (Rec., pp. 15 and 17) is, substantially, that complainant and defendants are all citizens of Louisiana, and that the act of 1874 prolonging the bank's charter did not also extend the exemption from taxation contained in the acts of 1833 and 1836, but that if it did the exemption was voluntarily surrendered by the bank's acceptance of act No. 79 of 1880, which, it is averred, was passed at the instance of the bank and afterwards assented to by the bondholders in a certain agreement exhibited with the answer of the Board of Assessors for the City of New Orleans and the Parish of Orleans, marked "Exhibit A" (Rec., p. 29). It is claimed that the bank, by formally accepting the act of 1880 (which, however, *by express terms* was passed for *the benefit of the State*), stripped itself of all immunity from taxation and became subject to articles 203, 207, 234, and 237 of the State constitution of 1879.

It is claimed that the act of 1836 restricted the bank's exemption to "*capital*" in lieu of "*capital and property*," as provided by the act of 1833, and that article 118 of the constitution of the State of 1868, requiring all property to be taxed in proportion to its value and giving the legislature power to exempt from taxation property "actually used for church, school, or charitable purposes," prohibited

the legislature from prolonging the exemption by the act of 1874 extending the life of the bank's charter for the further period of twenty-five years, and consequently that the exemption expired in 1884, when the charter would have ceased to operate but for the act of 1874.

It is, furthermore, denied that any one of the judgments mentioned and relied on in the bill "is *res judicata* as to this existing controversy," and the unqualified liability of the bank to taxation is insisted on, but there is no attempt to give an explanation of the total failure of State, city, or parish to assess or tax the bank for *taxes of any kind* during the years 1889, 1890, and 1891, although such failure is relied on in the bill as an admission on the part of the State authorities that the bank is not amenable to taxation. (Rec., pp. 15–25; *ib.*, pp. 86–88.)

The cause being at issue, evidence, both testimonial and documentary, was introduced, and it appears from the testimony of the deputy recorder of mortgages for the parish of Orleans, A. A. Aubertin, after examination of the assessment-rolls for State and city taxation from 1870 to 1892, that for the years 1870, 1871, and 1873 the bank is marked "*free;*" that for the years 1874, 1875, and 1877 it is assessed for taxation on its banking building and shares of stock, and that its capital or shares of stock are so assessed for the years 1884 and 1885, but, he goes on to say, that from 1887 to 1892 "*there are no assessments on the rolls against the bank on capital or on the banking building or on the shares,*" the witness adding that "in the place for the assessments there is the word *exempt and the name of the bank, but no assessments,* AND," he continues, "ALL THE ASSESSMENTS OF WHICH I HAVE SPOKEN HAVE BEEN MARKED CANCELLED BY ORDER OF

COURT" (Rec., p. 222), the witness further stating that his examination was restricted "to the assessment district in which the bank is located, where its capital or banking building or shares would have to be assessed." (Rec., p. 222.)

It also appears by the testimony of the president of the bank, Mr. Nott, that while the bank has all along claimed, by advice of counsel, that the real estate bought in by it from time to time for the protection of the State at foreclosure sales under stock mortgages was exempt from taxation under its charter as so much capital, it has deemed it more economical, in many instances, to pay the taxes illegally assessed against such property than contest the right of the authorities to levy them. (Rec., pp. 217, 218.)

It is to be noted that "*all objections to testimony*" were withdrawn, by stipulation, before the hearing. (Rec., p. 91.)

DECREE.

The cause came on for final hearing, and on June 26, 1893, a decree was entered sustaining the exemption from taxation claimed by the bank under the act of 1874, prolonging the term of the charter, and vacating all assessments and supplemental assessments on the shares of stock and property of the bank, &c., and enjoining and restraining the defendants and their successors in office from enforcing or demanding payment of the taxes in question for the years 1889, 1890, 1891, and 1892, and ordering "that the defendants pay the costs of suit." (Rec., pp. 278, 279.)

APPEAL.

An appeal from this decree was prayed for and allowed on April 18, 1894.

ASSIGNMENT OF ERRORS.

The errors assigned in the record are as follows:

First. That the court erred in refusing to hold that act No. 40 of 1874, extending charter to A. D. 1911, was enacted subject to the provision of the State constitution of 1868, and that the legislature thereof, while it might extend the life of the corporation, could not, after the period fixed for the duration of its charter, exempt the corporation from the tax required to be levied by the constitutions of 1868 and 1879.

Second. That the court erred in not giving effect to the provision of the State constitution of 1879.

Third. That the court erred in not holding that under the provision of act No. 79 of 1880 the bank was subjected to the provision of the constitution of 1879 relative to taxation, particularly articles 234 and 237 of that constitution, the said act showing on its face that it was passed in the interest of the bank and on condition that the bank accept the conditions of the act, which the bank did.

Fourth. That the court erred in not holding that the property of the bank was subject to the burden of reclaiming same and protecting it from overflow.

Fifth. That, considering the evidence and the law applicable thereto, the court erred in not dismissing the bills of complaint herein. (Rec., p. 281.)

ARGUMENT.

EXTENT OF THE BANK'S EXEMPTION UNDER THE ACTS OF 1833 AND 1836.

Before examining the several positions taken by the defendants in support of their contention that the bank has lost its exemption from taxation, we will first consider the precise extent of that exemption.

The claim of the bill is that the bank is "exempt in its capital and property * * * from all taxes to the State or to any parish or corporation created by law of this State," as provided by the act of 1833 (sec. 30), and as, in part, repeated by the act of 1836. (Sec. 10.)

On the other hand, the defendants claim that the effect of the act of 1836, amending the charter, was to narrow the bank's exemption to its "*capital*," the language of the act being that "the capital of the bank shall be exempt from any tax laid by the State or by any parish or body politic under the authority of the State during the continuance of its charter."

But while the act of 1836 repeals expressly several provisions of the act of 1833, it is silent as to the provision of the latter exempting "the capital and property" of the bank from taxation of every kind.

If, then, the exemption as to "property" is repealed by the later act, it must be by implication. In other words, there must be a conflict, which construction cannot remove, between the provision of the old law, exempting both "capital and property," and the *repetition* of that exemption

as to "*capital*" only, in the subsequent law, or it must be plainly inferable that the legislature intended that the exemption of the act of 1836, as to "capital," should take the place of the exemption of the act of 1833. As this Court says, in Chicago Railway Co. *vs.* United States (127 U. S., 406, 409), "The second act will not operate as such repeal merely because it may repeat some of the provisions of the first one and omit others or add new provisions. In such cases the later act will operate as a repeal only where it plainly appears that it was intended as a substitute for the first act. As Mr. Justice Story says, it 'may be merely affirmative or cumulative or auxiliary.' Wood *vs.* United States, 16 Pet., 342, 363."

Now, so far from it being clear that the legislature intended that the exemption of "capital" contained in the act of 1836 should supersede the exemption of both "capital and property" contained in the act of 1833, we think the very reverse is manifest.

By section 14 of the act of 1833 the bank is authorized to subscribe for the whole or any portion of the stock of the Lake Borgne Navigation Company, and by section 15 it is provided that, in case the said company should not have constructed a certain canal within eight years from the passage of the act, it shall be bound to pay into the treasury of the State the sum of $500,000 in five equal annual installments.

By section 16 of the same act the bank is empowered to build, equip, and operate and take tolls on railroads between certain points therein mentioned.

To these sections the exemption section of the act (sec. 30) bears a direct relation and must be given in full:

SEC. 30. Be it further enacted, That at the expiration of the charter of the said corporation, as fixed by this act, if the said corporation shall have acquired the rights, privileges and advantages mentioned in the fourteenth section of this act and shall have had the peaceable and quiet enjoyment thereof, it shall be the duty of the said corporation to deliver up to the State of Louisiana, all the canals and the appurtenances thereto, or dependencies thereon, mentioned in the fifteenth and eighteenth section of the act of incorporation of the Lake Borgne Navigation Company, to which it is by the said fourteenth section of this act, authorized and empowered to subscribe on the conditions therein mentioned; *also, all roads, of whatever description, that may have been made or executed, as well as all the machinery, cars for transportation, and all other dependencies thereon, together with all the rights of tolls, and all and every other privileges attached thereto, which shall then become the full property of the said State*, in consideration of which said cession, or in lieu thereof, the bonus mentioned in the fifteenth section of this act, the said corporation shall, during its existence, *be exempt in its capital and property, which it may acquire by virtue of any of the provisions of this act, from all taxes to the State, or to any parish or corporation, created by law of this State;* and this charter shall continue for and during the space of fifty-one years from the passage thereof.

While this section does not lay a duty on the bank to build canals, on the one hand, or railroads, on the other, it does say explicitly that any canals or railroads that it may build must go to the State, at the expiration of the charter, with everything appertaining thereto, and it is that duty together with the right of the State, in a certain contingency, to demand from the bank the bonus of $500,000, in the event of its absorbing the Navigation Company, that

was the consideration for the immunity from taxation extended to "the capital and property" of the bank.

Afterwards section 7 of the act of 1836 took away all the bank's powers and privileges with reference to the Lake Borgne scheme and extinguished the contingent right of the State to the bonus provided for in section 15 of the former act. This repealing section is as follows:

> That the 14th section of the act to incorporate the Citizens' bank, authorizing the subscription to the capital stock of the corporation known by the name of the Lake Borgne Navigation Company, the 15th section of said act fixing a penalty for not digging the canal therein described, and all provisions in said act relative thereto, be, and are hereby repealed.

Now, it will be observed that the repealing section leaves undisturbed section 16 of the act of 1833 empowering the bank to build and equip railroads and collect tolls on the same, and leaves unaffected the requirement of section 30 that the bank shall at the expiration of its charter turn over to the State "all roads of whatever description that may have been made or executed, as well as all the machinery, cars for transportation, and all other dependencies thereon, together with all the rights of tolls, and all and every other privileges attached thereto, which shall then become the full property of the said State," * * * instead of being allowed to divide the same, with the other assets, among its stockholders.

It is true, that the effect of section 7 of the act of 1836 was to extinguish a part of the consideration on which the exemption of section 30 of the prior act was founded, but

we submit that it would be exceedingly unjust to the bank, as well as a strained interpretation, to hold that the affirmative declaration of section 4 of the act of 1836, that the "*capital*" of the bank should be exempt from all taxation, operated a partial abrogation of the exemption of both "capital and property" in the previous law, in the absence of any provision in the later act either discharging the bank from the duty of turning over to the State all the railroad property and equipment it might own at the time its charter expired, or repealing section 16 giving the bank authority to acquire and use such property. This omission seems conclusive that the legislature intended that so much of the consideration of the exemption of section 30 as remained unaffected by section 7 of the subsequent act should suffice to support the exemption of both "capital and property."

Any other conclusion would seem difficult, in view of the repeated rulings of this and other courts that repeals by implication are not favored, and that it is unavoidable necessity alone that drives a court to hold that the legislature has been so inattentive as to enact a law that cannot be harmonized with a previous law and yet omit to use words of express repeal.

It is true, that the supreme court of the State, in Citizens' Bank of Louisiana *vs.* Bouny, tax-collector (32 An., 239), decided that the provision of section 4 of the act of 1836, exempting the "*capital*" of the bank from taxation, had superseded the provision of section 30 of the act of 1833, exempting both the "*capital and property*" of the bank, but, while that decision is entitled to respectful consideration, it is not controlling in this Court, for the questions relating to the impairment of the obligation of the alleged contract of

exemption "must be determined by this Court upon its own judgment independently of any adjudication of the State court." (Bryan *vs.* Board of Education, 151 U. S., 639, 650; Mobile & Ohio Railroad *vs.* Tennessee, 153 U. S., 486, 492, 495, and cases cited.)

It may be further remarked with reference to the Bouny case, that the court proceeded on the idea that the consideration on which the exemption granted by the act of 1833 was based had "ceased and failed." We think, however, that we have shown that the consideration had not "ceased and failed."

If the above reasoning be sound, it follows that the *property* of the bank enjoyed the same immunity from taxation after the act of 1836 as it did before.

IS THE EXEMPTION STILL IN FORCE?

It will be seen that by section 30 of the act of 1833 it is provided that the charter of the bank "shall continue for and during the space of fifty-one years from the passage thereof." As the charter was approved April 1, 1833, the time for it to expire was April 1, 1884; but, as already stated, it did not then expire, because the legislature, by an act approved March 6, 1874 (No. 40), prolonged its life for a further term, to expire on January 30, 1911, or twenty-seven years, erroneously stated in the act as twenty-five years.

As to this extension there is no controversy in the case, but the State authorities, the defendants, deny that the act granting it has or could have the effect of enlarging the operation of the exemption from taxation for the additional term.

The argument is that the State constitution of 1868, which was in force when the act of 1874 was passed, disabled the legislature from enlarging the duration of the exemption, and, furthermore, that there is nothing in the act to show that the legislature had any such purpose.

THE INTENTION OF THE ACT OF 1874.

But is it not self-evident that the act intended to enlarge the term of the exemption?

As between the State and the bank, the latter was to meet the principal and interest of the bonds as they matured. The main source to which both parties looked for that purpose was the stock-mortgages. If they failed to yield sufficient, the State might have no protection as to the deficiency. The State, therefore, had a direct interest in the solvency and success of the bank.

When the act of 1874 was passed the planting interest and the labor of the State were still suffering from the impoverishment and disorganization resulting from the civil war. This appears by the preamble of the act, which, as we have seen, recites that it would be "*ruinous*" to the stock mortgagors to compel them to redeem the mortgages before the expiration of the bank's charter, in 1884, and involve such a sacrifice of the mortgaged lands as would "*endanger the security of the State*," and that it was to "*the interest of the State* that a prolongation of the charter of the Citizens' Bank of Louisiana be allowed, *so as to enable said institution to collect the debts due by the stockholders and thereby facilitate the payment of the State bonds.*" And, after providing for the "prolongation of the charter" (section 1), the act further

provides (section 2) that the bank may agree with the holders of all bonds and interest warrants falling due from and after its passage for an extension of the time of payment, not to exceed twenty-five years "from their respective maturies."

It is evident from this act that the legislature was apprehensive of serious loss to the State through the insufficiency of the assets of the bank to pay all the outstanding bonds, and considered that nothing but wise management could prevent such a result. To say, then, that the legislature, under these circumstances, intended to deprive the bank of the exemption from taxation during the prolongation of the charter is nothing short of holding that the legislature intended *to tax what was practically the property of the State*, and that, instead of facilitating the payment of the State bonds, as the act declares to be its purpose, it intended to impair the ability of the bank to pay them by adding the burden of taxation to its other burdens.

The act of 1836 (section 3) declared that "both the capital and interest of said bonds shall be paid by the bank at the time they shall become due," and accordingly, so far as the State was concerned, the bank was the real obligor and principal debtor. As a consequence, it was deemed important by the legislature that the bank should have every facility to enable it to work out of its difficulties and protect the State from loss. This appears, in many ways, in the legislation relating to the bank.

Looking now at the low condition of the bank and the fact that the charter had not reached its limit, by some ten years, at the time the act of 1874 was passed, it seems

strained and arbitrary to say that the act did not intend to prolong the term of the bank's exemption.

And the view is strengthened by the consideration that the charter provides that "all the profits" made by the bank should be "added to and made a part of its capital," and that no dividend beyond *one-fifth* of the profits should be allowed, *and then only after payment of some one of the five series of bonds.* Well and pertinently does the learned judge of the court below say in his opinion:

> Here was an institution which had and was to have nothing for itself till its profits had, with the stock mortgages, paid the State's bonds. The exemption of its capital from taxation was the exemption of something out of which the State's own obligations were to be paid, and the public works—the railroads and canals—which the bank was to build, were to be constructed. The exemption was therefore till the bonds should be paid a reservation of the State's own property from taxation. (Rec., p. 287.)

But for the denial on the other side, it would seem too plain for discussion that the bank, thus dedicated and thus destined, was intended to be exempt from taxation during the prolongation granted by the act of 1874.

Moreover, the presumption against an intention to surrender or suspend the taxing power gives no trouble here, because the exemption claimed for the bank must operate for the immediate protection of the State.

EFFECT OF THE CONSTITUTION OF 1868.

Article 118 of the constitution of 1868, which, it is claimed by the defense, prevented the legislature from prolonging the existence of the bank's exemption, is as follows:

"Taxation shall be equal and uniform throughout the State. All property shall be taxed in proportion to its value, to be ascertained as directed by law. *The General Assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes.* The General Assembly may levy an income tax upon all persons pursuing any occupation, trade, or calling, and all such persons shall obtain a license, as provided by law. All tax on incomes shall be *pro rata* on the amount of income or business done; and all deeds of sale made, or that may be made by collection of taxes, shall be received by courts in evidence as *prima facie* valid sales. The General Assembly shall levy a poll tax on all male inhabitants of this State over twenty-one years old for school and charitable purposes, which tax shall never exceed $1 per annum."

It can hardly be successfully denied that the exemption clauses in the acts of 1833 and 1836 were important and, as the sequel shows, necessary elements of the scheme on which the Citizens' bank was founded, and it would seem to be an extremely unreasonable interpretation to put upon article 118 to hold that, where the security of the State demanded an extension of the bank's charter, such extension could not be effected without crippling the bank and diminishing its ability to protect the State. As well might we say that if the charter of the bank had been adjudged forfeited in 1874 the legislature could not have condoned the forfeiture

and reinstated the bank in all its rights and privileges as completely as though no forfeiture had occurred.

The present is a strong example of the mischief that would follow from an interpretation abridging the power of the legislature to prolong the existence of corporations established directly for the public good. The presumption against an intention to fetter legislative power must be as strong as the presumption in favor of the taxing power, if not stronger.

To give the sense contended for to article 118 is to make it, to some extent, *retroactive*, without any necessity, and in violation of a well-established rule.

Especially inadmissible is such an interpretation in a case like this, where it is manifest, from the charter and other legislation and the nature of the end to be accomplished, that the legislature looked forward to a continuance of the bank's existence for just as long a period as should be necessary to work out its cumbrous scheme, quite irrespective of the charter limitation of fifty-one years.

This appears, very clearly, by section 4 of the act of 1833, which, after providing for the issuing of bonds by the bank, says: "And for the payment of which [bonds] the mortgages, to be given by the stockholders by virtue of this act, shall remain as a *perpetual pledge* to the holder or holders of the said bonds until the expiration of this charter AND THE FINAL LIQUIDATION OF THE AFFAIRS OF SAID BANK, and the just and true payment and extinction of all the bonds that may be made and negotiated," &c., &c.

This provision is made expressly applicable to the State bonds by section 3 of the act of 1836.

Certainly the legislature had no expectation that the

bank would be wound up in 1884 when it passed the act of March 11, 1873, forty years after the date of the charter, authorizing the bank to make calls on its stockholders not to exceed *two dollars a share in any one year*, the par value of a share being one hundred dollars. It can be readily seen that a protracted process was here provided for getting the stock paid up in driblets—a process which to bring good must needs be very long-continued.

The fact that, as the bill avers, "the stock mortgages had no term prescribed for their payment" is a contemporaneous exposition of the charter that lends weight to the theory that the legislature, when it enacted the charter, forecasted that the term of fifty-one years would not be, necessarily, the measure of the bank's existence and intended that the vitality of the bank should be preserved until its mission was entirely accomplished.

The agency of the bank in working out the satisfaction of the State bonds was indispensable, and, therefore, it was imperative that so long as there were unpaid bonds outstanding the organization of the bank should be kept up. The State had made the experiment in the year 1842 of depriving the bank of its charter and placing its affairs in the hands of official liquidators, called "managers;" but in 1852, as stated above, it was found necessary for the security of the State to rehabilitate the bank by act No. 141, passed in that year, which recites that "the State of Louisiana is now responsible for bonds issued in favor of the Citizens' Bank of Louisiana for a sum exceeding six millions of dollars, together with accruing interest thereon;" that "the present condition of said bank is such as to expose the State to loss from the inability of said bank to meet the payment

of said bonds and interest IF THE LIQUIDATION OF THE BANK BE CONTINUED ON THE SYSTEM NOW ESTABLISHED BY LAW," and that "THE MANAGERS APPOINTED BY THE STATE FOR SAID BANK HAVE REPRESENTED THAT THE STOCKHOLDERS WILL BE ENABLED TO SECURE THE STATE FROM THE SAID RISK OF LOSS IF THEY BE RESTORED TO THE CONTROL AND ADMINISTRATION OF THE SAID BANK."

These official liquidators or managers, who thus candidly confessed that the affairs of the bank would be better off in the hands of the stockholders, lacked the spur of the self-interest which gave the greater energy and efficiency to the administration of stockholders bent on protecting the State with as little loss to themselves as possible.

The bank has justified the wisdom of the act of 1852 restoring its charter by the prudence of its administration. The evidence shows (Rec., pp. 207, 218–220) that it is now carrying and holding a number of plantations which it, from to time, has bought in at sales under the stock mortgages rather than suffer them to be sold at a sacrifice—a condition of things which makes it still more apparent that the interests of both State and bank imperatively demand that the dead weight of the property thus acquired should not be increased by State and local taxation. If, however, taxation is permitted, then there is, we fear, no alternative to the bank's abandoning its careful, conservative policy and letting this property go from its hands at any price it will bring.

The learned judge of the court below was clear in the conviction that it was the purpose of the charter, as originally granted in 1833 and as amended in 1836, that the bank's exemption should continue throughout the whole

period of the bank's existence, that is to say, for the term fixed by the original charter and for any prolongation thereof, as an idea imbedded in the scheme of the charter.

In support of this view, the judge said :

"I will consider under this rule whether the words 'during the continuance of its charter' mean 'during the continuance as fixed herein' or 'during the continuance as fixed herein and as the interests of the State may require the legislature hereafter to continue the corporation in existence.'

"The answer to this question will, as it seems to me, depend upon the object of the legislature in granting the exemption. This object will best appear from the relations of the State to the bank in 1836. Out of twelve directors the legislature originally appointed six, and now it appoints five.

"The State was to have an interest on a graduated scale, ranging from one-sixth to one-twenty-fourth, in the profits of the bank, according to the amount of bonds taken by it.

"The bonds, to the amount of $12,000,000, to be issued by the State, were made by the State to the order of the bank and by the latter endorsed, and were thus payable to bearer. The stock mortgages were transferred to the State, and to whomsoever might be the holders of the bonds. They were to bear interest at the rate of 5 per cent. and were payable in five installments, one-fifth at February 1 in each of the years 1850, 1859, 1868, 1877, and 1886. The bank was to build certain railroads and canals, which ultimately were to be turned over to the State, and that portion of the profits belonging to the State should, when available to the State, be devoted to cause of education in declared proportions throughout the State.

"The profits of the bank were to be added to the capital of the bank; there were to be no dividends among the

stockholders, nor distributions of earnings to the State, except out of a small fraction of the profits, and then not until after the successive installments of the bonds had been paid.

"It may be remarked that none of the installments of the bonds have been paid.

"I will sum up the statutory relations of the State to the bank thus disclosed by saying: The State furnished the entire capital by the loan of its own bonds, and till the bonds were paid all the stock, securities, or mortgages made by the stock subscribers were transferred and hypothecated, and all the profits of the bank were pledged and impounded for the payment of the bonds. This summary proposes the way to reach an answer to the question, How long was the exemption to continue? For fifty-one years, or so long as the charter relations of the State to the exempted property continued? The object of the exemption must determine its originally expressed period of exemption. Here was an institution which had and was to have nothing for itself till its profits had, with the stock mortgages, paid the State's bonds. The exemption of its capital from taxation was the exemption of something out of which the State's own obligations were to be paid, and the public works—the railroads and canals—which the bank was to build, were to be constructed. The exemption was, therefore, till the bonds should be paid, a reservation of the State's own property from taxation. One-fifth part of these bonds were not to mature till two years after the original period for the existence of the charter had elapsed. It seems to me that the chief object of the exemption being to facilitate the payment of the State's own bonds, the period of exemption declared must be construed to be so long as the charter was by the legislature continued that the State's bonds might be paid. It is true fifty-one years was a long period; but even in 1836 it was found necessary to make the last installment of the bonds payable fifty-three years

after the original charter commenced. The enterprise was of such great public moment that the State advanced the entire capital—possibly, $12,000,000—actually, $7,000,000. The exemption was for the purpose of facilitating the repayment to the State for this advance, and the provision for it in the amended charter 'during the continuance of its charter' meant not only as therein fixed, but as the payment of the State's obligations should lead the State afterwards to extend it.

"It is the whole charter, the object of the exemption, and the destination of the profits of the institution which require this inference.

"The supreme court in The Citizens' Bank *vs.* Bouny, 32 Ann., 245, held that, without regard to this clause expressly exempting from taxation the capital, the reservation of the profits for the extinguishment of the bonds of the State contained in the charter of 1836 prohibited the taxation of the accumulations by the State. If a corporation without capital, save as derived from its profits, is by the scope and meaning of its charter so destined and dedicated to the purposes of the State that even without specific exemption of its accumulations they cannot be taxed by the State, it must follow that when in the same charter the capital is expressly exempted during its existence under the charter the express exemption is in keeping with the implied and inheres in the charter throughout its original and prolonged term, if it be kept alive by the State, to render this exclusive destination or dedication available to itself.

"This was the view of the legislature in 1874, when they extended the charter.

"There certainly are grave difficulties in the way of maintaining that under this statute, which is a tripartite contract—that is, a contract between the State, the bank, and the bondholders—the State can secure the extension of its own bonds for the period of twenty-five years and the continuation of a charter which in effect destines the profits of

the bank to the payment of its bonds for two years beyond that period, and at the same time disregard that destination by imposing a tax which, by the decision of the supreme tribunal of the State, is held to be so inconsistent with that destination as to be prohibited by it.

"It is to be observed that the legislature merely extended the charter, inferring that the original words 'during its continuance' carried with them the original exemption throughout the period of the extension. I think in this the legislature drew the inference from the entire charter which a study of it requires.

"The reason in the original charter, as amended in 1836, for making the duration of the exemption co-extensive with any prolongation of the charter inhered in the purpose which was paramount with the State upon the subject of time in connection with the existence of the bank, in that the bank and the exemption must endure till the bonds she had borrowed had been paid; but in the extension of the charter and the continuance of the exemption two other parties also had an interest and fixed rights—the bank and the bondholders." (Rec., p. 285.)

HAS ARTICLE 118 ANY BEARING ON THIS CASE?

It is said in the answer of the Board of Assessors and the City of New Orleans that the provisions of article 118 of the constitution of 1868 that "all property shall be taxed in proportion to its value, to be ascertained as directed by law," and that "the General Assembly shall have power to exempt from taxation property actually used for church, school, or charitable purposes," took it completely out of the power of the legislature to prolong the term of the bank's exemption by the act of 1874.

It may be doubted whether there is anything in this

language which can be understood as prohibiting the legislature from suspending the taxing power as a consideration for contracts and undertakings beneficial to the public. Certainly the annunciation of the salutary principle that property shall be taxed in proportion to its value cannot be taken as prohibitory of legislative contracts suspending the taxing power. The other affirmative provision, giving the General Assembly power "to exempt from taxation property actually used for church, school, or charitable purposes," would seem to have been intended to restrict those exemptions of a gratuitous and charitable character which occur, more or less, in every system of taxation and are sometimes multiplied to the public detriment, and was hardly intended to be prohibitory of *contractual* exemptions granted by the legislature as a consideration for contributions to the public good which may well be regarded as the equivalent of taxes. It is, perhaps, improbable that the constitution would have left so important a restriction on legislative power to be implied merely from the absence of contractual exemptions from an enumeration of exemptions of a fundamentally different character; hence, according to the established rule, any doubt on the subject should be resolved in favor of the legislative power.

We make this point with entire deference for the decisions of the supreme court of the State laying down a contrary rule, and are moved to do so on two grounds, (1) because the question is open for investigation on this appeal, and (2) because the cases in the State court, so far as we are informed, all arose under statutes granting exemptions of a gratuitous, revocable character (Louisiana Cotton Mftg. Co.

vs. New Orleans, 31 An., 440, and cases therein cited), and did not present the precise question arising on this appeal.

If the view we suggest of article 118 is correct, it follows that if the act of 1874 had contained a grant *de novo* of exemption from taxation, *in the place of being merely an extension of the time of an existing grant*, it would have been valid.

NO SURRENDER OF BANK'S EXEMPTION.

The argument in support of the contention that the bank has surrendered its tax exemption, supposing the same to have been extended by the act of 1874, is built on the fact that the bank accepted act No. 79 of 1880 by a writing filed in the office of the secretary of state (Rec., p. 35) in submission to the exactions of section 4 of the act, which is as follows:

"SEC. 4. That this act shall not be binding, or confer any right upon the bank, unless accepted, within twelve months from the date of this act, and under the conditions prescribed in articles 234 and 237 of the constitution, such acceptance to be manifested by the bank in writing, and filed in the office of the secretary of state."

This section was enacted in supposed obedience to article 234 of the State constitution of 1879, which is as follows:

"Article 234. The General Assembly shall not remit the forfeiture of the charter of any corporation now existing, nor renew, alter or amend the same, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of the constitution."

Article 237 of the constitution, also referred to in the act, is as follows:

"No corporation shall engage in any business other than that expressly authorized in its charter or incidental thereto; nor shall it take or hold any real estate for a longer period than ten years, except such as may be necessary and proper for its legitimate business or purposes."

The object of the act of 1880 was (section 1) to enable the bank to compromise and settle the liability of the mortgage stockholders when deemed judicious and when assented to by the bondholders and approved by the directors, and declares that such compromises should have the effect of releasing and cancelling the stock mortgages.

It furthermore provided (section 2) that "*all sums realized from such compromises as well as from the enforcement of the mortgages should be applied to the satisfaction of the* bonds of the States and to the legal liabilities of said mortgage-stock department and to the necessary expenses of said department."

The act also provided (section 3) for an increase of the number of State directors in the bank, making it the duty of such directors to supervise the compromises authorized and declaring that no compromise *should be valid* "*without the* approval *of the majority of said directors on the part of the State.*" (See Appendix, p. 29.)

Now, when it is remembered that the bank was clothed with important public functions, and that all its resources were primarily dedicated to the payment of the State bonds issued for its benefit, it is obvious that the application to the legislature for the purposes stated in the act was not such

an application as is contemplated by article 234 of the constitution, and that the application and the resulting statute were not "for the benefit of the corporation," the bank, in the sense of the constitution, which has regard to substance and not form, we must presume.

To say, then, that any remote and possible good that might inure to the bank from the act brought the bank within the class of applications soliciting enlarged faculties and privileges for the purely corporate purposes pointed to in article 234 would seem to be a perversion of its language. From the beginning to the end of the act of 1880 the hand of the State and the good of the State are conspicuous.

The bank, as we have seen, was the agency through which the State bonds were to be paid, and the object of the act was to enlarge the bank's powers, so that it might make the stock mortgages available by judicious compromises with the mortgage stockholders, and so benefit the State by facilitating settlements with the bondholders, who, for ready cash, might be willing to forego something on their bonds.

It would be a strange result of this effort *to facilitate* the retirement of the obligations of the State if it should be held that the bank by accepting the act had stripped itself of the exemption from taxation—one of its principal facilities as an agency for the protection of the State treasury.

When we say that the protection of the State was the motive of the act of 1880, and not corporate selfishness, we appeal to the fact, for corroboration, that corporate selfishness had almost come to an end with the bank after the millions of capital raised on the State bonds had been *poured into the laps of the stockholders.* The dividends they were to receive on their stock were to be

gathered mainly from their own plantations. Thenceforth there was little for corporate selfishness to operate upon, although each stockholder must have been alert as a stock mortgagor in looking out for his individual interest as a debtor of the bank. Thenceforth the bank was run in the interest of the State, whose protection became the mainspring of its activity. Its *esprit* as a corporation hardly existed, certainly, at least, in its stock-mortgage department.

The learned judge below was clear in the conviction that the bank had not surrendered its tax immunity by accepting the act of 1880, and, going a step further, held that the conditions exacted in section 4 of the act were void, and an unwarranted invasion of the right of petition secured by the State constitution. He said:

"The question turns upon whether the thing sought was such a thing as is meant and specified in article 234. The thing granted was for the bank with the assent of the directors appointed by the State to realize for the State and bondholders out of stock mortgages—*i. e.*, without a foreclosure and sale. These stock mortgages were hypothecations of plantations and slaves. The destruction of slavery had reduced the value of the hypothecations more than half, or possibly two-thirds. It was necessary to find a purchaser for the mortgaged property and at a price equal to the par value of the stock of the subscriber, or for the bank itself to become the purchaser of the property. The first was impossible, the second was ruinous for the State. Therefore, it was enacted that, with the consent of the State's representatives, the bank might, upon the receipt of a fair sum by way of adjustment, release any of the mortgaged property and apply the sum realized to the payment of the State's bonds. This was in no true sense a law passed for

the benefit of the bank. It was rather a legislative permission to resort to the only practicable method of making the mortgages available to the extinguishment of the State's bonds and should be denominated as a law passed by the State for the benefit of itself. Again, it was in no sense the creation of a special right, but was rather the recognition by the State of a right already existing, which any court of equity would, in a case where all the parties were before the court, have recognized without the act of 1880. It would follow that the legislature, in compelling the bank to make any renunciation in order to have force and operation given to that statute, acted not only without authority, but in defiance of the constitutional prohibition which forbade it to impede the right of petition except in a certain class of cases, of which the application for the grant or recognition contained in the act of 1880 was not one, and that the renunciation exacted from the bank by the legislature in violation of the constitution of the State is void."

As the learned judge says, if the act of 1880 relates to a subject that does not fall within article 234 of the State constitution, it would seem that the onerous conditions of section 4 of the act are such as the legislature could not impose without violating the State constitution (art. 4) by hampering and obstructing the bank's right of petition.

ASSENT OF THE BONDHOLDERS.

The act of 1880, as we have seen, required the assent of the bondholders as a condition necessary to the valid exercise of the bank's power to compromise with the mortgage stockholders. This assent was given by the mandatary of the bondholders, Messrs. Hope & Co., of Amsterdam, in a notarial act, to which the bank and Hope & Co. were par-

ties (Rec., pp. 29–35), and the first article of which is as follows:

"Article 1. The parties of the second part are creditors of the State of Louisiana as the holders of bonds of the State, issued under the act of the General Assembly aforesaid, and other acts passed by the General Assembly relative thereto, and are creditors of the Citizens' bank aforesaid, the party of the first part, as the endorser and guarantor of the bonds and the securities given in extension thereof, and have an immediate interest in all the securities granted by the bank aforesaid in its act of incorporation and by the third and fourth sections of that act to the holders of its bonds, and which, by the act of January, 1836, were transferred to the State and to the holders of its bonds. And it appearing to the parties of the second part that the State of Louisiana and the Citizens' Bank of Louisiana, and the debtors of that State and of that bank and of these parties as bondholders who are designated in the said acts, and who have secured their debts by mortgage, are greatly embarrassed, and the funds pledged have deteriorated, *these parties of the second part consent to the act of the General Assembly, approved the 9th of April, 1880*, which was obtained by the party of the first part, from the General Assembly of Louisiana; *to provide for the liquidation and settlement of those debts, upon terms of compromise, so as to secure the application of the amounts to be realized from said mortgages to the payment of the State bonds and to the legal liabilities and necessary expenses incident to the execution of the act of the General Assembly aforesaid*—which act is as follows and forms part of the same."

Now an attempt is made by the defendants to stretch the bondholders' assent, thus given to the bank's power to compromise—*the only assent on their part contemplated by the act*—so as to make it amount to a renunciation of their contract right to have the bank's assets exempt from taxation.

It is respectfully submitted that this position is inadmissible. Nothing could be more unjust than to attribute to the assent of the bondholders a scope and effect not contemplated by them or by the law under which it was given, and especially when it appears by the notarial act that the security of the bondholders had become so precarious as to make it highly improbable, not to say impossible, that they would have been willing to surrender their interest in the bank's exemption from taxation.

Certainly it was beyond the power of the legislature and the bank to deprive them of that right without their consent, it being clear that the exemption entered into the contract imported by the bonds.

But, however that may be, we submit that article 234 of the State constitution has no application to a case where the corporation obtaining legislation has no power to surrender its privileges on account of the contract rights of creditors or others. Plainly the constitution has no reference to any such case, and the mistaken belief of the legislature that it had will not be allowed to work a surrender of valuable rights. It would seem impossible to suppose that the harsh conditions of section 4 of the act of 1880 would have been imposed unless the legislature had thought it was carrying out a constitutional mandate, and it appears clear that the section is to be taken *strictissimi juris* and not to be read as though the legislature had enacted it irrespective of a mistaken constitutional duty.

RES JUDICATA.

But the questions fundamental to the defense in this case have been foreclosed by previous decisions of the courts of Louisiana in cases between the bank and the defendants or their official privies.

These questions are as follows:

(1.) That it was not within the purview of act No. 40 of 1874 to prolong the duration of the bank's exemption from taxation.

(2.) That article 118 of the constitution of 1868 took from the legislature the power to make any such prolongation.

(3.) That the bank by accepting act No. 79 of 1880 surrendered its exemption and became subject to taxation under the constitution of 1879.

It is admitted, however, by the defendants that the exemptions from taxation granted the bank by the acts of 1833 and 1836 were contracts protected by the Constitution of the United States from impairment by the State legislature.

This concession was necessary, under the decisions of this Court and because the supreme court of the State had already so decided in Citizens' Bank of Louisiana *vs.* Bouny, tax-collector (32 An., 239), which was affirmed on the point so late as May, 1896, by the same court in State *ex rel.* Citizens' Bank of Louisiana *vs.* Board of Assessors *et als.* (48 A. —.)

It is said, however, in the joint answer filed by The Board of Assessors and The City of New Orleans (Rec., p. 25) that

as the Bouny case was decided in February, 1880, before the expiration of the time of the bank's charter, as originally limited, and before the passage of the act of 1880, no question as to the effect of that act on the previous act of 1874 could have entered into the judgment; but subsequent cases leave no room for this contention, as we now proceed to show from the transcripts of the proceedings in those cases, given in the record and part of complainant's evidence.

On the 5th of November, 1886, the bank filed its petition in the civil district court for the parish of Orleans praying an injunction to restrain The Board of Assessors for the Parish of Orleans, The City of New Orleans, and The State Tax-collector above Canal Street from enforcing payment of taxes assessed on the property and capital of the bank, and the court, being of opinion that the law and the evidence were against the defendants, entered the following judgment:

"It is ordered, adjudged, and decreed that there be judgment in favor of the plaintiff, The Citizens' Bank, and against the defendants, The Board of Assessors for this Parish, The City of New Orleans, and The State Tax-collector above Canal Street, ordering said Board of Assessors in and for the Parish of Orleans, and The State Tax-collector of the City of New Orleans above Canal Street to be directed and commanded to erase as illegal, null, and void the assessments described in plaintiff's petition and recited below, and that they be prohibited from collecting any taxes on plaintiff's corporation based on said assessments.

"It is further ordered, adjudged, and decreed that the said Board of Assessors in and for the Parish of Orleans, The City of New Orleans, and The State Tax-collector of the City of New Orleans above Canal Street be prohibited from recording any taxes against said plaintiff corporation's property based on said assessments.

"The costs of this action to be borne by the above-named defendants." (Rec., p. 193.)

On July 26, 1882, The City of New Orleans brought suit against the bank, in division A of the same court, for the sum of $1,880.25, being taxes alleged to be due the city for the year 1880, with interest from March 31, 1880.

The bank, in its answer, filed November 7, 1882, denied all liability, on the ground of its charter exemption, which, it alleged, was an inviolable contract, which the legislature could not impair, the same being under the protection of the Constitution of the United States.

Upon this record the court gave judgment as follows:

"It is ordered that there be judgment in favor of defendant dismissing plaintiff's suit with costs." (Rec., pp. 194–196.)

On April 1, 1887, the bank filed a petition in the said court against Charles Cavanac, State tax-collector for the lower or Second district for the parish of Orleans below Canal street, praying that he might be enjoined from enforcing collection of taxes claimed to be due by the bank on certain real estate in the city of New Orleans. The bank set up that it was exempt from taxation under a contract protected by the Constitution of the United States. The injunction was granted as prayed. The defendant answered, denying the allegations in the petition and praying a dissolution of the injunction, and there the proceedings rested. (Rec., pp. 197–199.)

On October 29, 1886, the bank filed a petition in the said court against The Board of Assessors for the Parish of Orleans and The City of New Orleans and The State Tax-collector

praying an injunction to prevent enforcement of payment of taxes amounting to upwards of $15,000 and claimed to be due the State and city, and setting up that the assessments on which said claims for taxes were based were made in violation of the bank's exemption and repugnant to article 1, section 10, of the Constitution of the United States. It was also claimed in the petition that the real estate of the bank included in the assessments was in fact a part of its capital.

The State tax-collector and the city answered, traversing the substantial averments of the petition.

The court entered the following judgment:

"In this cause, submitted to the court for adjudication, for the reasons orally assigned by the court, the law and evidence being in favor of plaintiffs—

"It is ordered, adjudged, and decreed that there be judgment in favor of plaintiffs, The Citizens' Bank of Louisiana, and against The Board of Assessors of the Parish of Orleans and James D. Houston, tax-collector for the upper district for the parish of Orleans, decreeing that the assessment for the year 1886 standing against the banking-house or real estate in the square bounded by Gravier, Camp, Poydras, and St. Charles streets, assessed at $75,000, on 10,500 shares of the capital stock, at $42.73 per share, aggregating an assessment of $448,875, is null and void and of no effect, and same be canceled and erased from the books of their respective offices, and that any inscription of the same in the mortgage office be canceled and erased, and costs of suit." (Rec., pp. 199–202.)

In the following year the bank again convened the assessors and city in the same court, asking the protection of an injunction against taxes illegally assessed in violation of the

bank's exemption and of the Constitution of the United States (Rec., 202–204). The judgment of the court is omitted in this record, but is given in the record in No. 483, p. 68, and is as follows:

"In this case, submitted to the court upon the evidence and pleadings on file, the law and evidence being in favor of plaintiff—

"It is ordered, adjudged, and decreed that the injunction herein issued on the 21st day of March, 1887, be now made perpetual, and that The Board of Assessors for the Parish of Orleans, and the members thereof, be enjoined and prohibited from assessing the Citizens' bank for taxes, city or State, for the year 1887, upon its capital stock or the shares thereof or its property, and that said assessment, if made, be canceled from the books of assessments for the year 1887, and that the recorder of mortgages for the parish of Orleans be, and is hereby, enjoined from recording said assessment upon the books of his office. Costs herein to be paid by defendants.

"Judgment rendered March 3, 1887.

"Judgment signed April 27, 1887.

"(Signed) A. L. TISSOT, *Judge.*"

None of these judgments of the Civil District Court was appealed from by the tax authorities of the State or City, but those judgments have all the force and effect, between the parties, of the determinations of the highest Courts. (Johnson Company *vs.* Wharton, 152 U. S., 252.)

In addition, the supreme court of Louisiana has laid down in the above-mentioned case of The State *ex rel.* Citizens' Bank of Louisiana *vs.* Board of Assessors *et als.*, decided in May, 1896, that all questions as to the bank's right to exemption from taxation touching its capital and banking-

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house and the furniture therein must be considered as completely foreclosed by the previous decisions of State courts on the principle of *res judicata.*

It is difficult to perceive how it can be insisted in argument here that the contention in the answer of The Board of Assessors and The City of New Orleans that those previous decisions, thus relied on by the supreme court, do not support the bank's position stated in the bill, namely, that the questions as to the effect of the acts of 1874 and 1880 on the exemptions granted by the acts of 1833 and 1836 are no longer open.

There is no room for doubt as to the meaning of the supreme court in the case last referred to, for they say, in their opinion on the rehearing:

"We refrained from stating the effects as to the taxation of the bank's capital in consequence of act 79 of 1880. We now do the same, because we think it unnecessary to do so. *We propose to let this question as to the exemption of the bank's capital rest on the decisions heretofore rendered.*"

Those previous decisions rendered after the date of the expiration of the bank's charter, as originally fixed, *and acquiesced in without appeal*, could not have been made without holding, first, that the exemption from taxation was prolonged until 1911 by the act of 1874; and, secondly, that the bank's acceptance of the act of 1880 did not involve a surrender of the tax immunity. In each of those cases the bank, whether as plaintiff or defendant, planted itself on the claim of an inviolable contract of exemption, protected from impairment by the Constitution of the United States, and therefore *every element of that question must have been determined.*

It follows, then, that the questions raised by the defendants in opposition to the bill were necessarily involved in and decided by the previous cases. How, then, can those questions be reagitated in another case between the same parties or their privies where the principle of *res judicata* is invoked?

To make a former judgment operate as an estoppel in a second suit between the same parties involving a different cause of action, it must appear that the point claimed to have been decided in the first suit was actually raised and decided there. This the record may show by express terms or by necessary implication. Either is sufficient. (Packet Company *vs.* Sickles, 5 Wall., 580, 592; Cromwell *vs.* County of Sac, 94 U. S., 351; Wiggins Ferry Co. *vs.* O. & M. Railway, 142 U. S., 396, 410.)

In applying the principle of *stare decisis* in Bank of Commerce *vs.* Tennessee (161 U. S., 134, 142), this Court would not yield to the argument that the Court, in giving judgment in Farrington *vs.* Tennessee (95 U. S., 679), had overlooked a statutory provision which directly concerned the point in judgment, but conclusively presumed that the Court had duly considered the provision.

HOW THE OBLIGATION OF THE CONTRACT IS IMPAIRED.

It is admitted that for the years 1889, 1890, 1891, and 1892 both State and city yielded obedience to the repeated decisions of the supreme and civil district courts by ceasing to annoy the bank with tax demands of any description. (Rec., p. 24.)

Was it then official cupidity or a political shift that led to re-

opening war upon the bank and trampling judicial decisions under foot? Of this, however, we may be sure, that zeal for the public good manifests itself by other methods.

In this way the bank is again brought face to face with assessments of its capital and other property and the demands of tax-collectors based thereon, and as the interpretation put on a law by officers appointed to administer it is the voice of the law itself, it follows inevitably that the State of Louisiana has enacted and is seeking to enforce a law which impairs the obligation of the exemption contract between it and the bank.

It is important to note that the board of assessors for the parish of Orleans and that the city of New Orleans, in their joint and several answer, rest their defense to the suit on the contention that the charter exemption which protected the bank's capital from taxation has ceased to operate by lapse of time or by surrender. Nowhere is it suggested in this answer, which is adopted by all the other defendants, that the assessments nominally against the shareholders on their shares are not in fact and in law assessments against the capital of the bank. Indeed, so complete is this concession that no reference whatever is made in the answer to the well-known distinction, frequently observed for the purposes of taxation, between capital stock in the hands of the corporation and the shares into which it is broken in the hands of stockholders.

The assessments against the bank, both for the State and the city of New Orleans, were made under the pretended authority of section 27 of act No. 106 of 1890, which is as follows:

"SECTION 27. *Be it further enacted, etc.*, That no assessment shall *hereafter* be made *under that name, as the capital stock*

of any national bank, State bank, banking company, banking firms, or banking association, whose capital stock is represented by shares, *but the shares shall be assessed at their actual value* as shown by the books of the bank, or banks, *to the shareholders*, who appear as such upon the books, regardless of any transfer not registered or entered upon the books, and it shall be the duty of the president or other officer to furnish to the assessor a complete list of those who are borne upon the books as shareholders; *and all taxes so assessed shall be paid by the bank, company, firm, association, or corporation which shall be entitled to collect the amounts from the shareholders or their transferees;* all real estate owned by the bank, company, firm, association, or corporation, *shall be assessed directly to the bank*, company, firm, association, or corporation, and the *pro rata* of such direct property taxed, proportioned to each share of capital stock, *shall be deducted from the amount of taxes assessed to that share under this section.* Such assessment shall be made where the bank, etc., is located and not elsewhere, whether the shareholders reside there or not. The said book value shall be ascertained upon a statement duly sworn to by the president, cashier or secretary, and chairman of finance committee, or in the absence of such latter officer then by one of the directors, showing the assets in detail and the valuation placed upon each, and said valuation shall be at a fair market value. The sworn statement of the bank's condition made next preceding the date of listing shall be the basis of assessment. Any president or other officer who shall refuse or fail to deliver the said list of shareholders, and said statement of book value and of bank's condition, within the first twenty days of January of each year to the assessor, shall be guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, at the discretion of the court. The district attorney will at once act upon any complaint of such neglect or refusal made to him by the assessor, or by the board of assessors in the parish of Orleans."

It is difficult to conceive how the concession of the defendants that the assessments in question were levelled at the capital stock of the bank could have been avoided, in view of the declaration of the section that "hereafter" no assessments of capital stock shall be made "UNDER THAT NAME," but that in all cases where *such stock* is "represented by shares" the shares shall be assessed to the shareholders.

It was by act 77 of 1880 (sec. 48) that this indirect method of taxing capital stock was first employed, and it has been continued ever since.

Before the act of 1880, as the qualification "*hereafter*" in that act and the succeeding acts imports, the method was to assess capital stock directly, where not invested in real estate (see act 68 of 1870, sec. 1, par. 8, and act 96 of 1877, sec. 11), unless act 8 of 1878 (sec. 1) should be considered an exception.

It is manifest that the declaration of section 27 of the act of 1890 that "hereafter" capital stock shall not be assessed "*under that name*," but that the shares of such stock shall be assessed to shareholders, is merely a nominal departure from the direct method previously employed.

The section, it will be observed, does not make the distinction, already adverted to, between capital stock in the hands of corporations and the shares of that stock in the hands of shareholders. On the contrary, it treats both as the same, one as a mass and the others as integers of that mass. Of this, section 27 furnishes convincing evidence. In the first place, it declares that "all taxes so assessed shall be paid" by the corporation, not out of funds of shareholders in the hands of the corporation, but *absolutely and primarily*, whether holding such funds or not, the statute

not even providing that the corporation shall have the protection of a lien on the shares. Nor does it make any substantial difference that the law contains the specious and elusory declaration that the corporation "*shall be entitled* to collect the amounts from the shareholders or their transferees," inasmuch as the legislature must have contemplated that the burden would be kept on the corporation by the shareholders, *who are virtually the corporation.* As the direct and meditated result of this scheme, the Citizens' bank is taxed on its capital, and the security of the State and the bondholders is impaired by an unlawful diversion of corporate assets.

It is difficult to believe that the legislature would have attempted anything so arbitrary as to require a corporation to pay *out of its own treasury* taxes assessed against its shareholders on their shares, if the assessment was not intended to be an assessment on the corporation itself.

It is something of a burden to require such taxes to be paid out of dividends held by a corporation for its shareholders, but it would be a form of oppression to compel a corporation to be a guarantor for the taxes of its shareholders, whether holding money belonging to them or not. We venture to say that taxes paid by corporations under section 27 have never even been demanded from the shareholders in whose nominal behalf they were paid.

Knowing, as we do, the impoverished condition of the people of Louisiana, it cannot be supposed that the legislature intended to lay a tax on the shares of capital stock in the hands of shareholders and at the same time extend an exemption from taxation to corporations as to such stock in their hands, where it could be lawfully taxed. It is safe

to say that the legislature would have shrunk from incurring the odium of making such a discrimination in favor of corporations.

But there is another cogent reason for saying that the assessments directed by section 27 of the act of 1890 were intended to be on capital stock, although nominally on the shares of such stock in the hands of shareholders. The section requires that "all real estate owned" by the corporation "shall be assessed *directly* to it," and that "the *pro rata* of such *direct* property taxed, proportioned to each share of capital stock, *shall be deducted from the amount of taxes assessed to that share under this section.*" In this language we have infallible proof that the assessment directed to be made against shareholders on their shares is but a pretense, for if it is the shares in their hands that were intended to be assessed as property distinct from the capital stock of the corporations, why were taxes "*directly*" assessed against the real estate of corporations required to be deducted *pro rata* from the amount of taxes assessed on the shares? The real estate of a corporation being an entirely distinct thing from the shares of its capital stock in the hands of shareholders, upon what known principle could the legislature have directed that the taxes assessed on corporate real estate should be deducted from the amount of taxes assessed on the shares *unless the latter were in fact assessed against the corporation itself?*

But this Court, in New Orleans *vs.* Houston (119 U. S., 265, 278, 279), tore the mask from identically the same legislation in passing upon a previous tax law of Louisiana, holding that the assessment against shareholders was nomi-

nal, and that the corporation was the real object of the tax. The Court said:

"That it is substantially a tax upon the corporation itself is *unequivocally shown* by the subsequent clause, *which authorizes a deduction from the amount of taxes assessed to each share of its proportion of the direct property taxes paid by the company as such under* sections 1 and 3, and of all exempt property belonging to the corporation." * * *

"Indeed, it is quite apparent from the language of the whole section that while *nominally* the taxes authorized are not to be assessed upon the capital stock of the corporation in the aggregate and as its property, *yet in substance that is its effect.* The taxes are assessed upon the actual shares, as registered in the names of the individual shareholders, but are to be paid by the corporation, *so that while the form and mode of taxation is changed, its substance remains as though assessed against the corporation by name"* (pp. 278, 279).

The Court further held that the requirement that the corporation should be primarily liable for taxes assessed on the shares of shareholders was of itself a violation of the corporate exemption from taxation, saying:

"A tax such as that sought to be imposed upon the company by the appellees is a tax upon the corporation within the meaning or the prohibition of its charter, because it is compelled to become surety for taxes nominally imposed upon its stockholders, and is made liable primarily for their payment; a payment which, in the first instance, must be made out of the corporate property, without other recourse than an action against individual stockholders to recover the amounts advanced on their account" (pp. 279, 280).

This Court having shown in New Orleans *vs.* Houston (*supra*) that where the capital stock of a corporation was exempt from taxation a *pro rata* deduction of the tax that would be otherwise assessable on it from the taxes assessed on the shares would leave nothing to tax on the latter, the legislature of Louisiana, thinking to tax corporations *in spite of their exemptions*, resorted to the device of omitting from section 27 of the act of 1890 the usual provision for deductions in respect of exempt property. Foiled repeatedly by her own courts, as we have seen, the State resorted to this elusory attempt to escape the obligation of contracts of exemption which she had made with certain of her corporations. The Citizens' bank, as one of these corporations, comes to this Court to secure through it the protection of the Constitution of the United States.

But the argument to show the elusory intent of section 27 of the act of 1890 may be yet more enforced by some further attention to the language of the section. After stating that hereafter capital stock shall not be assessed "*under that name*," it is provided, further on, that real estate owned by a corporation shall be assessed "*directly*" to it, and real estate so assessed is then referred to as "*such direct property taxed*," language which plainly implies that the only other taxation provided for in the section, namely, the nominal tax of shareholders on their shares, is an *indirect* taxation of the corporations themselves.

And this view finds great support in the next section (sec. 28) of the act, which provides that corporations whose capital stock *is not represented by shares* "shall be assessed *directly*" on all property owned by them. So that the meaning of the law must be, that where the capital stock

of corporations is represented by shares it shall be *indirectly taxed through the shares*, and that otherwise it shall be taxed *directly*.

But if the requirement that corporations should be primarily responsible for the taxes of shareholders violated the corporate exemption from taxation in the case of New Orleans *vs.* Houston (*supra*), for a stronger reason still, that requirement violates the exemption of the Citizens' bank, which is directed by its charter to apply its profits primarily to the payment of the State bonds, an application of profits which its duty to the State and the holders of the bonds makes obligatory, and also paramount to any duty under section 27 to pay the taxes of shareholders. Indeed, the whole assets of the bank being by its charter dedicated to the payment of these State bonds, it certainly must be considered an invasion of the contract rights of the bondholders in the bank's exemption to compel the bank to use any part of those assets in paying the taxes of its shareholders.

The harsh operation of the tax requirement of section 27 is made further apparent by the fact that the bank *has never earned a dividend* from which to indemnify itself for paying these so-called taxes of its shareholders.

But this requirement that the bank shall pay the taxes of its shareholders assessed on their shares is a tax on the bank in respect of its capital stock. Assuming the ultimate liability to be with the shareholders, still the bank is clearly burdened with these taxes on the shares of its capital stock until it can obtain reimbursement. That is enough to constitute an impairment of the contract of exemption. "The amount of the impairment of the obligation is immaterial.

If there be any it is sufficient to bring into activity the constitutional provision and the judicial power of this Court to redress the wrong," citing Van Hoffman *vs.* City of Quincy, 4 Wall., 535 (Farrington *vs.* Tennessee, 95 U.S., 683). It results, then, that the throwing of this burden of the shareholders on the bank, *to any appreciable extent*, affords ample warrant for the interference of this Court.

But it is submitted that the shares in the hands of the shareholders enjoy immunity from taxation under the exemption of the bank's capital. The distinction between the two is notional and artificial at best, often leading to double taxation, and unless the legislature shows a clear intention to make it the courts always refuse to give it recognition. In Tennessee *vs.* Whitworth (117 U. S., 129) this Court said:

"It is no doubt true that *the legislature may make a difference for the purposes of taxation* between the capital stock of a corporation in the hands of the corporation itself and the shares of the same capital stock in the hands of the individual stockholders."

The Court then proceeded to say that it is a question of legislative intention whether the distinction exists in a given case or not.

It is noteworthy that the Chief Justice says, in his dissenting opinion in Van Allen *vs.* The Assessors (3 Wall., 573, 593):

"We do not understand the majority of the Court as asserting that shares of capital invested in National Securities could be taxed without authority from Congress."

As the success of the bank's plan turned on the punctual redemption of the stock mortgages, and as each stockholder

was an important factor in the plan, it would seem extremely unreasonable to set up here the artificial distinction mentioned in the absence of some indication in the bank's charter that such was the legislative purpose.

On the contrary, considering the pecuniary interest the State and the bondholders had in facilitating the success of the enterprise, it may be safely concluded that the legislature, looking to the general welfare, intended that in construing the exemption the term "capital" should receive a construction both reasonable and commensurate with the usual sense of the term. If it was advisable that the "capital" in the hands of the bank should be exempt from taxation, it was equally so that the same "capital" should enjoy a like immunity in the hands of the shareholders, upon the punctuality of whose payments the whole scheme turned.

Giving the charter the meaning which was "*in the minds of the parties to the contract* when the statute was enacted," to borrow the language of the Court in Tennessee *vs.* Whitworth (117 U. S., 129, 137), it seems difficult to believe that the legislature could have intended that the bank should be held primarily liable for the taxes of its shareholders when the profits of the bank were to go *to the bondholders* and not to the shareholders.

But we maintain that the banking-house and furniture and the plantations which the bank, as we have seen, has been compelled to buy in at foreclosures of stock mortgages are all a part of the bank's capital and within the protection of the bank's exemption. Indeed, it is difficult to see how any property owned by the bank can be open for taxation, for if it do not represent capi-

tal in the strict sense, it must represent profits, which, as soon as made, are, by section 29 of the charter, added to and made part of the bank's capital, after deducting possible niggardly dividends at long intervals, which no stockholder has yet received. Every dollar was capitalized that could be, and all the energy of the institution was towards the redemption of the outstanding bonds and keeping itself in a condition to grant the accommodations which the State might from time to time require.

That the plantations which the bank has been compelled to buy in at sales to foreclose stock mortgages and is holding until they can be disposed of to advantage are a part of the bank's capital would seem to be a clear proposition.

It will be remembered that the original stock subscriptions were not in cash, but secured by mortgages on real estate, and that upon the security of these same mortgages each stockholder was entitled to borrow of the capital raised by the bank on the bonds a sum equal to one-half the amount of his subscription.

The proceeds of the bonds were for the most part lent in this way to the stockholders. The repayment of these loans with the increment of interest was to furnish from time to time the means for redeeming the bonds.

Such was the plan. But the civil war came, and soon the bank stood face to face with the insolvency of its stockholders and an impairment of mortgage values reaching almost to the point of destruction.

How was the bank to perform the imperative duty of rescuing its capital from this perilous situation?

To pursue the stockholders *in personam* would be worse than useless. To put up and sell the depreciated mort-

gage lands for the cash they would bring might leave the planters still heavily in debt and certainly throw the burden of the unpaid bonds on the State treasury.

The bank took the only course that was open to it as a business concern. It closed up the mortgages and bought in the lands. It has therefore *gotten back its capital in the shape of land.* But what it has thus gotten back is none the less capital than it would have been in the shape of bills or notes or securities, especially as the primary object of founding the bank was that its capital should be put out mostly on real estate. Manifestly, the law authorizing that disposition of capital contemplated the occurrence of cases where the bank's protection would require the buying in of the mortgage subject. Accordingly, we find that what the bank has done has received repeated legislative recognition (act No. 216, 1847; act No. 45, 1873). If the land thus held by the bank is not capital, then the $500,000 tied up in that way must represent so much *extinguished capital.* A strange result to be produced by the very means employed to conserve the capital!

The learned judge below well said:

"In the case of this bank there is therefore NO DISTINCTION BETWEEN THIS PROPERTY AND THE CAPITAL. These several hundred thousand dollars of plantations, etc., which have been realized to the bank by the foreclosures of its stock mortages *are a portion of its capital.*" (Rec., p. 293.)

But the supreme court of the State, in the above-cited case of The State *ex rel.* Citizens' Bank of Louisiana *vs.* Board of Assessors, decided in 1896, *while fully recognizing the bank's exemption from taxation as to capital,* declined to accept the

argument that the mortgage lands now held by the bank are capital, and ruled that they are subject to taxation.

It is a powerful circumstance that *neither side argued the point on which the case turned.* It was therefore to be hoped that the court would consent to rehear the cause, but the able application for that purpose, made in behalf of the bank, was not favorably received.

It is fortunate for the question so vital to the bank that this case is of a class in which this Court is not bound to accept the interpretations put on State statutes by the State courts.

It is respectfully submitted that it is hardly an argument to say that the capital of the bank is money and not land, for, should this be conceded, the question remains whether the lands held by the bank are not to be treated as money upon the familiar principle of equitable conversion so often applied in the administration of partnership assets and other cases. Under this principle money may go to the heir as land, and land be distributed among the next of kin as money.

Where under the charter of a bank loans on real security are compulsory and the bank is driven by necessity to take land for a debt, it seems like a solecism in jurisprudence to maintain that this temporary conversion of its monied capital into land opens the door to taxation, although that door must be closed again so soon as the land shall have been turned back into money. According to this doctrine, capital of the bank tied up for a like reason in bonds or shares of stock should be taxable.

The position of the bank finds direct support in the case of Railroad Companies *vs.* Gaines (97 U. S., 707), where this

Court say that an exemption of capital stock "must almost necessarily mean *an exemption of the securities into which the money has been converted in the regular course of a banking business*, and in general an exemption of capital stock, without more, may, with great propriety, be considered, under ordinary circumstances, as exempting that which, IN THE LEGITIMATE OPERATIONS OF THE CORPORATION, COMES TO REPRESENT THE CAPITAL." (Italics and capitals our own.) And the same idea is repeated in Tennessee *vs.* Whitworth (*supra*), where the Court say: "A tax upon the railroad, therefore, after its completion, is necessarily a tax upon the capital, because, practically, the capital and that into which it has been converted are the same" (p. 135).

In Railroad Co. *vs.* Harris (21 Maine, p. 533) the Court applied the principle of conversion, holding that, under a charter authorizing the corporation to hold real estate and at the same time making its capital stock personal estate, its land must be treated as personalty, and so *could not be taxed, as there was no law taxing personal property.*

The case of New Haven *vs.* City Bank (31 Conn., 106) seems to be on all-fours with the case at bar. In that case the Court say:

"By the terms of the charter the capital stock of the bank was to consist of five thousand shares of one hundred dollars each. Had that amount been subscribed and at once paid in, the money so accumulated would have been the capital stock of the bank, and as such exempted from taxation; and when one hundred thousand dollars of the money thus accumulated had been paid out by the bank on its subscription for stock of the Hampshire and Hamden Canal Corporation, that canal stock took the place of the money paid for it and became *pro tanto* capital stock of the City

bank and exempt, as the money was, from taxation; and so when afterwards, for debts previously contracted, houses, lands, or goods were necessarily taken in payment, such houses, lands, or goods became, in lieu of the money for which they were received, part of the capital stock, and entitled to the same exemption. Otherwise, the canal stock thus purchased and the houses, lands, and goods thus acquired might be taxed, and thus the promised exemption purchased by the stockholders and assured to them by the charter would be rendered worthless and delusive."

Without multiplying citations we may refer the Court to State *vs.* Wilson, president, &c. (52 Md., 640); Scotland County *vs.* Railway Co. (65 Mo., 134); President and Trustees, etc., *vs.* Bank (16 Ind., 105); City of N. O. *vs.* N. O., &c., Co. (29 A., 857); Traction Co. *vs.* City (45 An., 1475); Burroughs on Taxation, 178, 184; 1 Desty on Taxation, 148; Cooley on Taxation, 164, 225, and note; 2 Waterman Corp., 352.

The Supreme Court, having held that the question of the bank's exemption from taxation of capital was *res judicata* by previous decisions, was not at liberty, we apprehend, to proceed to hold that the bank had become subject to article 237 of the Constitution of 1879 by accepting act 79 of 1880, because that question was necessarily involved in the thing adjudged in those previous decisions, and, as we have seen, was determined in favor of the bank.

If the bank's acceptance of the act of 1880 did not bring it under the dominion of the Constitution of 1879 as to the exemption of its capital from taxation, as the Supreme Court concedes, it is difficult to understand how that acceptance could have brought it within the restriction of article

237 of that Constitution as to its holdings of land. The two positions seem repugnant.

If, however, the argument that has been made above, to show that the land in question is really capital and, for that reason, not taxable, is sound, the position of the Court is not maintainable, for it follows inevitably from that argument, that said land held by the bank falls not within the prohibition of article 237, but within its *exception*, as land "necessary and proper for its *legitimate business or purposes.*"

It is respectfully submitted that there is no error in the decree, and that it should be affirmed.

WM. A. MAURY,
HENRY DENIS,
BRANCH K. MILLER,
Of Counsel for Appellee.

APPENDIX.

CHARTER OF THE CITIZENS' BANK OF LOUISIANA.

AN ACT to incorporate the Citizens' Bank of Louisiana; approved April 1, 1833.

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened,* That there shall be established in the city of New Orleans, a bank, under the name and title of the Citizens' Bank of Louisiana. That the capital of said bank shall be twelve millions of dollars, to be formed and procured by means of a loan or loans, to be made by the directors of the said bank, in the manner and form, and on the terms and conditions hereinafter prescribed.

SEC. 2. *Be it further enacted,* That the books of subscription, for the sum of fourteen millions four hundred thousand dollars, to be divided into shares of one hundred dollars each, and intended to secure the said loan of twelve millions of dollars, shall be opened, as soon as may be, after the promulgation of this act, twenty days' notice thereof having been previously given in two of the newspapers published in the city of New Orleans, that the said books shall be opened by, and the subscription of the stock of the said bank received under the superintendence and control of the seven commissioners hereinafter named. The said books of subscription shall be kept open every day (Sundays excepted,) from ten o'clock, a. m., until three o'clock, p. m., at such place in the city of New Orleans as a majority of the said commissioners shall determine, and shall be kept open for and during the space of four months, and may be continued open for a longer time, to be fixed by the said commissioners, or a majority of them, in case at least twenty-four thousand shares should not at that time have been subscribed. That books of subscription for the stock of said bank shall also be opened, at the court-house or judge's office, where there is no court-house, in every other parish in this State, under the inspection of three commissioners, at each of the

aforesaid places, as hereinafter named. The said managers shall give twenty days' previous notice, by advertising in the newspapers there published, or by advertisements posted at four of the most public places, of the time when, and the place where said books shall be opened. The said managers shall have all the power and authority granted by this act to the commissioners appointed to receive subscriptions in the city of New Orleans, and said managers shall, immediately after the expiration of three months said books are required to be kept open, transmit to the commissioners or directors in New Orleans, the books of subscription so opened by them at the aforesaid places, together with all the titles and other documents that may have been deposited with them. If the subscription to the stock of said bank should exceed the sum of fourteen millions four hundred thousand dollars, then the directors hereinafter provided for, or a majority of them, shall make a correct statement of the same, and shall deduct the surplus: first, by striking off all subscriptions that may have been made by persons incompetent to subscribe under any of the provisions of this act, or such as are based upon property, the title to which shall be found to be bad or doubtful: second, in case the amount subscribed by any person shall exceed the value of the property offered as a security, by reducing the amount of the subscription to the true value thereof: third, by deducting from the largest subscriptions in such a manner that no subscription shall be reduced in amount while there remains one larger. If, at the expiration of said term of four months, during which the said books of subscription are directed to be kept open in the first instance, or during the subsequent period to be fixed by the direction, as hereinbefore provided, the whole amount, one hundred and forty-four thousand shares, shall not be subscribed; but if at least twenty-four thousand shall have been subscribed, then, and in that case, the said directors shall cause the same to be closed, and shall cause the same to be opened each year afterward for the subscription of a certain number of shares to be fixed by the said direction, notice whereof shall be given in at least two of the newspapers published in the city of New Orleans in the French and English languages, for the space of twenty days previous to the reopening of said books, which shall be kept open for the space of three months, and so continue until the whole of the said capital stock shall be subscribed; and in case

of an excess of subscription upon any reopening of the said books as aforesaid, the reduction thereof and the repartition among the subscribers, shall be made in the same manner and by the same rules as are hereinbefore prescribed. That two separate books shall be kept in New Orleans, in one of which persons owning property in the city and parish of Orleans, and otherwise authorized, may subscribe to the amount of eight millions four hundred thousand dollars, and the other in which owners of property situated in the other parishes of the State may subscribe for a sum of six millions; which subscriptions shall be kept separate and distinct, and reduced in case of excess, and final repartition made among the subscribers as hereinbefore provided: *Provided*, That if the whole amount shall not have been subscribed in one of the said books at the end of four months from the opening thereof, that then it shall be lawful for all persons, wherever their property may be situated, to fill up the said subscriptions to the aforesaid amounts.

SEC. 3. *Be it further enacted*, That all the subscriptions to the capital stock of the said bank shall be guaranteed and secured by mortgages subject to such rules, regulations and restrictions, as may be hereinafter provided, which mortgages shall form the basis of, and stand as full security for the loan, or loans, and the interest thereon, which the said directors are authorized to make, and designated in the first section of this act, forming the capital of said bank, and that it shall be competent to all persons who shall be in good faith the owners and possessors of real property within this State, and to all bodies corporate and politic, authorized and empowered thereto in law, to become subscribers to the capital stock of said bank, under the rules and regulations established by this act.

SEC. 4. *Be it further enacted*, That in order to facilitate the directors of the said bank in negotiating or obtaining the loan aforesaid which is to form the capital thereof, the said directors shall, and they are hereby authorized and empowered to issue the bonds of the said bank, signed by the president and countersigned by the cashier thereof, and payable by equal portions, in fourteen, twenty-three, thirty-two, forty-one and fifty years, from the date of this act, which bonds shall be to the following tenor and effect:

Be it known by these presents, that the Citizens' Bank of Louisiana acknowledges to be indebted to the bearer hereof

aforesaid places, as hereinafter named. The said managers shall give twenty days' previous notice, by advertising in the newspapers there published, or by advertisements posted at four of the most public places, of the time when, and the place where said books shall be opened. The said managers shall have all the power and authority granted by this act to the commissioners appointed to receive subscriptions in the city of New Orleans, and said managers shall, immediately after the expiration of three months said books are required to be kept open, transmit to the commissioners or directors in New Orleans, the books of subscription so opened by them at the aforesaid places, together with all the titles and other documents that may have been deposited with them. If the subscription to the stock of said bank should exceed the sum of fourteen millions four hundred thousand dollars, then the directors hereinafter provided for, or a majority of them, shall make a correct statement of the same, and shall deduct the surplus: first, by striking off all subscriptions that may have been made by persons incompetent to subscribe under any of the provisions of this act, or such as are based upon property, the title to which shall be found to be bad or doubtful: second, in case the amount subscribed by any person shall exceed the value of the property offered as a security, by reducing the amount of the subscription to the true value thereof: third, by deducting from the largest subscriptions in such a manner that no subscription shall be reduced in amount while there remains one larger. If, at the expiration of said term of four months, during which the said books of subscription are directed to be kept open in the first instance, or during the subsequent period to be fixed by the direction, as hereinbefore provided, the whole amount, one hundred and forty-four thousand shares, shall not be subscribed; but if at least twenty-four thousand shall have been subscribed, then, and in that case, the said directors shall cause the same to be closed, and shall cause the same to be opened each year afterward for the subscription of a certain number of shares to be fixed by the said direction, notice whereof shall be given in at least two of the newspapers published in the city of New Orleans in the French and English languages, for the space of twenty days previous to the reopening of said books, which shall be kept open for the space of three months, and so continue until the whole of the said capital stock shall be subscribed; and in case

of an excess of subscription upon any reopening of the said books as aforesaid, the reduction thereof and the repartition among the subscribers, shall be made in the same manner and by the same rules as are hereinbefore prescribed. That two separate books shall be kept in New Orleans, in one of which persons owning property in the city and parish of Orleans, and otherwise authorized, may subscribe to the amount of eight millions four hundred thousand dollars, and the other in which owners of property situated in the other parishes of the State may subscribe for a sum of six millions; which subscriptions shall be kept separate and distinct, and reduced in case of excess, and final repartition made among the subscribers as hereinbefore provided: *Provided*, That if the whole amount shall not have been subscribed in one of the said books at the end of four months from the opening thereof, that then it shall be lawful for all persons, wherever their property may be situated, to fill up the said subscriptions to the aforesaid amounts.

SEC. 3. *Be it further enacted*, That all the subscriptions to the capital stock of the said bank shall be guaranteed and secured by mortgages subject to such rules, regulations and restrictions, as may be hereinafter provided, which mortgages shall form the basis of, and stand as full security for the loan, or loans, and the interest thereon, which the said directors are authorized to make, and designated in the first section of this act, forming the capital of said bank, and that it shall be competent to all persons who shall be in good faith the owners and possessors of real property within this State, and to all bodies corporate and politic, authorized and empowered thereto in law, to become subscribers to the capital stock of said bank, under the rules and regulations established by this act.

SEC. 4. *Be it further enacted*, That in order to facilitate the directors of the said bank in negotiating or obtaining the loan aforesaid which is to form the capital thereof, the said directors shall, and they are hereby authorized and empowered to issue the bonds of the said bank, signed by the president and countersigned by the cashier thereof, and payable by equal portions, in fourteen, twenty-three, thirty-two, forty-one and fifty years, from the date of this act, which bonds shall be to the following tenor and effect:

Be it known by these presents, that the Citizens' Bank of Louisiana acknowledges to be indebted to the bearer hereof

for the sum of one thousand dollars, which sum the said Citizens' Bank of Louisiana promises to pay on the — day of ——, with interest at the rate of five per centum per annum, payable semi-annually at the place stated in the endorsement, to wit: the — day of —— and the — day of —— of each year, until payment of the principal.

In witness whereof, the president of the said Citizens' Bank of Louisiana has signed, and the cashier countersigned the present, and affixed thereon the seal of the said bank, at the city of New Orleans, this — day of ——, in the year of our Lord, ——, which bonds the directors of the said bank are hereby authorized and empowered to emit and negotiate, for any price not under the par value, and fix the place where the capital and the interest thereon shall be redeemable and payable; and for the payment of which the mortgages, to be given by the stockholders by virtue of this act, shall remain as a perpetual pledge to the holder or holders of the said bonds, until the expiration of this charter and the final liquidation of the affairs of said bank, and the just and true payment and extinction of all the bonds that may be made and negotiated as aforesaid by virtue of this act, into whosoever hands the same may come, both in principal and interest, hereby granting, at all times, to the holder or holders of said bonds, all or any of them, the most summary process of the law on said mortgages, to enforce the payment of the whole or any part thereof, in case of non-payment.

SEC. 5. *Be it further enacted*, That no bonds shall be issued or negotiated by the said directors until mortgages shall be executed, according to the true intent and meaning of this act by subscribers to said bank, for at least one-fifth more in amount than bonds issued and negotiated, and that, to insure the same, it shall be the duty of said directors to cause each emission of the said bonds to be accompanied by a statement of the mortgages so executed, duly certified by the public officer or officers before whom they were passed, together with the certificate thereon of the proper recording officer, of their being duly enregistered, and of the governor of this State, under the seal of the State that such persons are the proper officers, and that full faith and credit are due to their acts; which statements and certificates may be demanded and retained by the person or persons purchasing the said bonds.

SEC. 6. *Be it further enacted*, That the acts of mortgages

intended to secure the stock subscribed for, except in the parish of Orleans, shall be passed and executed in the respective parishes in which the property may be situated, and that the bank shall not be authorized to require from said subscribers any act of mortgage to be executed in the city of New Orleans, except by the consent or desire of any such subscriber or subscribers.

SEC. 7. *Be it further enacted*, That, for the purpose of securing the capital and interest of the said bonds as aforesaid, the subscribers to the capital stock of said bank shall be obliged to furnish mortgages to the satisfaction of the direction, upon property, the value of which, in cash, to be ascertained as hereinafter directed, shall be at least equal to the full amount of the stock that may be to them respectively appointed; that the said mortgages shall be upon lands in a state of cultivation, and the slaves attached to the same and employed thereon, upon houses and lots in cities and towns, which produce rents and fruits. That the said mortgages may also include lands not cultivated, but which are susceptible of being so; also, vacant lots: *Provided*, That not more than one-fifth of the shares held by any one stockholder shall be secured by mortgage upon uncultivated lands which do not make part of some regularly established and cultivated plantation, nor on vacant lots in the city of New Orleans, or its suburbs; that no mortgage as aforesaid shall be taken or accepted on slaves alone, and that in case of mortgages on land and slaves as aforesaid, the value of the land and improvements alone, shall, in all cases, be at least equal to two-thirds of the shares intended to be secured by it. That in all cases where houses and buildings of any kind (except those attached to plantations) shall be included in the mortgages aforesaid, the same shall be insured against all risks by fire, at least to the amount they represent in the said mortgage, in some good and solvent insurance company, at the expense of the owner, and the policy transferred to the said bank, the insurance to be renewed from year to year; no person shall be permitted to subscribe to the stock of the said bank, who, at the time he so offers to subscribe, shall not exhibit to, and place in the hands of the managers, commissioners or directors, as the case may be, or the person employed or appointed by them to receive subscriptions, a public and authentic act of sale, a patent, concession, or certificate of confirmation of title from the Land Office of the

United States, deed of partition or judicial sale properly legalized, or some other good and sufficient proof of title to the property which he offers as the basis of his subscription, to be judged of by the said managers, commissioners or directors, and to their satisfaction.

SEC. 8. *Be it further enacted*, That the said commissioners, or directors, shall establish an office in the city of New Orleans, and keep the same open during one year, to be presided by three competent legal advisers of the said bank, who shall take oath faithfully to discharge the duties imposed upon them by this act, whose duty it shall be to receive all communications relating to the title of subscribers; to correspond with them, and clearly and explicitly point out all defects discovered therein; to superintend the perfection of said titles, and finally preparing them; to have forms of mortgages prepared and transmitted to the respective parishes for execution, according to the provisions of this act, all of which shall be at the expense of said bank.

SEC. 9. *Be it further enacted*, That the subscribers to the capital stock of the said bank shall be, and they are, hereby created a body politic and corporate in law, under the name and style of the Citizens' Bank of Louisiana, and by that name may sue and be sued, implead and be impleaded, and appear on all lawful occasions, in all courts of justice, and shall be capable of purchasing, inheriting, or taking by devise or donation, or any other lawful way, all and every kind of estate, property or effects, real or personal, or of any other kind or description, and the same again to sell, transfer, alienate, barter or dispose of in such manner and for such purposes as the said corporation shall judge proper, or to mortgage, hypothecate, pledge, or encumber the same in such manner and for such purpose as to the said corporation may seem meet; to have a common seal, and the same to break and renew again, or alter and change the same at the will and pleasure of the said corporation; to make such by-laws as the said corporation may judge necessary for the administration of its affairs: *Provided*, the same be not contrary to the laws of this State; and, finally, to have and enjoy all the rights, privileges and immunities which are by the existing laws granted or secured to corporations.

SEC. 10. *Be it further enacted*, That the said corporation shall have, possess, and enjoy, all the rights and privileges usually accorded to banks: To issue notes, bills or drafts,

payable to order or to bearer; to buy and sell, or trade in bills of exchange, drafts, or other mandates, either foreign or domestic; to discount bills, notes, and bills of exchange, or other mandates, foreign or domestic; to lend money upon mortgage or pledge of property, movable or immovable, or other effects; to buy, sell, and trade, in all kinds of stock and gold and silver bullion; and receive pledges thereof, all upon such terms and conditions, and on such securities as the directors shall judge proper: *Provided*, That the rate of discount shall never exceed, upon any note or bill discounted, five and a half per centum upon all bills or notes having not more than ninety days to run; six per centum per annum on all that shall have more than ninety days, and not more than six months to run; six and a half per centum upon all that shall have more than six months and not over nine months; and seven per centum upon all having more than nine months: *And provided, however*, That the amount of all the loans, discounts or advances, of what nature or kind soever, shall never exceed the double of the effective capital of the said bank, and the profits actually realized, retained by the bank and added to its capital, which shall be always considered as forming part of said capital, of which profits all that portion realized from the capital appropriated for the country shall be added to and considered as additional capital for the use of the country, and shall not be used in and for the city of New Orleans, except in default of applications from the other parishes of the State: *And provided, also*, That the debts of the said corporation, exclusive of deposits shall never exceed double of the said capital; to receive moneys, notes, bills, and other effects on deposits, or for collection; to take charge of special deposits of all kinds and issue certificates or receipts therefor; to allow to all persons making deposits of money in said bank such an interest, as to the directors, for the time being, may seem just, and upon such terms and conditions as they may judge proper.

SEC. 11. *Be it further enacted*, That the State of Louisiana shall, at all times, be entitled to a credit with the said bank of at least five hundred thousand dollars, to be loaned for such time as the State may require, not exceeding the term granted to stockholders, on the bonds or obligation of the said State being furnished in such manner as may be provided by law, bearing an interest which shall not exceed

five per centum per annum, which interest shall be payable half yearly in the city of New Orleans; and that every stockholder in the said corporation, on depositing and pledging his certificate of stock, shall be entitled to a credit equal to one-half of the total amount of his stock: *Provided*, That in proportion as any such stockholder shall use the said credit, he shall give his notes or obligations to the said corporation for the amount so lent him, and shall pay the interest thereon annually and in advance: *And provided, also*, That the payment of the principal of any sum or sums thus lent to any stockholder shall be so fixed and arranged, that at least one year before any partial reimbursement or payment is to be made of the bonds of the said corporation, to be issued and negotiated as hereinbefore provided, an equal proportion of any loan or loans so made to any stockholder, shall be paid and extinguished. All persons to whom loans of money shall be made by the said corporation on mortgages, or who shall have obtained discounts on the faith of the mortgages, shall have the privilege (if they shall so demand,) of renewing their notes or obligations at the end of every twelve months, during the period of ten years from the day on which the said loan or discount was made: *Provided*, That at the end of each twelve months, and on such renewal, one-tenth part of the primitive amount of such loan or discount shall be paid, together with the interest upon the sum remaining and so renewed, in such manner that at the expiration of the said term of ten years, the capital as well as all interest on such loan or discount shall be fully paid and extinguished: *And provided, also*, That upon any such loans or discounts as aforesaid, that may be made at any time after the expiration of the thirty-ninth year, of this charter, the annual payments thereon may be so fixed and arranged as that the whole of the said loan or discount, together with the interest thereon, shall be paid and extinguished at the expiration of the forty-ninth year of this charter: *And provided, also*, That if any person or persons, bodies corporate or politic, who shall obtain from the said corporation any such loan or discount as hereinbefore mentioned, shall fail, or neglect, or refuse to pay the proportion of the capital and the interest, as hereinbefore provided, as the same shall become due and payable, according to the provisions of this section, that then and in that case the whole debt, capital and interest, may be considered as due,

and payment thereof demanded and enforced according to law.

SEC. 12. *Be it further enacted*, That after deducting from the capital stock of said bank the sum of three millions of dollars, which the subscribers in the parishes of the State, other than the city and parish of New Orleans, will be entitled to receive on account of their subscriptions, then two millions of the remaining part of the capital, together with the profits that may be made thereon, and on the whole of the proportion of the capital allotted to the parishes other than the parish and city of New Orleans, shall be reserved to be loaned on mortgages or notes executed by persons residing in the parishes of the State, other than the parish and city of New Orleans, to be divided among each and every one of the said parishes in proportion to the amount of the tax each parish shall pay into the treasury of the State, to determine which proportion, the directors of said bank shall have the right to call upon the treasurer of the State for a just and true statement of the amount of taxes payable by each parish: *Provided*, That persons residing in this State, out of the city and parish of New Orleans, who may desire to borrow money from said bank on negotiable notes, shall not by any rule or regulation thereof, that may be made, be required to give an endorser or endorsers on said notes, domiciliated in the city and parish of New Orleans or any other named parish: *Provided*, That the endorser or endorsers shall reside in the State and be a good and sufficient security for the loan required, and the notes be made payable at the said bank in New Orleans.

SEC. 13. *Be it further enacted*, That the said bank shall have power to advance money to individuals for the purpose of building a house or houses, or other buildings, according to the plans or contracts which shall be submitted to the board, and upon such security as the said board may judge proper: *Provided*, That the external walls and the roof or covering shall be of uncombustible materials: *And provided, also*, That the advance for erecting such building or buildings shall in no case exceed one-half the value of the lot of ground upon which they shall be erected, together with the building or buildings, all of which shall be clear of previous encumberance; that in addition to the interest at the rate of seven per centum per annum, which the said bank would be entitled to charge on the moneys laid out and ad-

vanced for the erection of such building or buildings, it may also receive a commission of one per centum on the amount so advanced, exclusive of the premium of insurance thereon, until finished; when the proprietors of such lots and buildings may, and shall have the privilege, if they so choose, of being placed in the situation of borrowers from the said bank on mortgage, for the amount advanced on said buildings, on a pledge of the lots and building united, and shall be subject to the same conditions, and have all the privileges hereinbefore granted to persons borrowing money on mortgage. But if, on the contrary, they should neglect or refuse to comply with the said formalities, the whole amount of the loan shall be demandable according to said contract, with all the privileges therein stipulated: *Provided*, That no part of the net profits of that portion of the capital of this bank allowed to all the parishes of the State other than the parish of Orleans, be thus appropriated: *And provided, also*, That all the profits on moneys advanced to individuals for the purpose of erecting houses and buildings, shall be exclusively reserved for the benefit of, and to be distributed among the stockholders residing in the parish and city of New Orleans.

SEC. 14. *Be it further enacted*, That the said corporation shall have power, and they are hereby authorized, to subscribe for the whole, or any portion of the capital stock of the corporation known by the name of the Lake Borgne Navigation Company, chartered by an act of this legislature, passed on the twelfth day of March, one thousand eight hundred and thirty-two, as the directors of the said corporation may judge necessary and proper; and in case the subscription to the said company should amount to three-fourths of the whole number of shares provided for by the act incorporating said company, then and in that case, the directors of this corporation shall succeed to, and become vested with, all the powers, rights and privileges conferred on, or granted to, the said navigation company, and this corporation become subject to all the clauses, conditions, stipulations and limitations whatsoever, enacted by, and contained in, the charter of said company: *Provided, however*, That the provisions of this section shall not take effect unless a majority of the subscribers to the said navigation company, if any there be, consent thereto; and if there be none, then that of a majority of the persons named

in the said act shall so consent, which consent shall be signified to the governor of this State, by act in writing, before a notary public, duly authenticated copy of which act shall be filed in the office of the secretary of state, and preserved among the archives of this State.

SEC. 15. *Be it further enacted*, That in case the said company should not have constructed a canal, such as is described in the act incorporating the Lake Borgne Navigation Company, within eight years from the passage of this act, it shall be bound to pay into the treasury of the State, the sum of five hundred thousand dollars, in five equal annual installments; and in addition to the powers granted to the said company by the preceding section and the act to which it refers, the said corporation shall have the power to connect any canal they may make from Lake Borgne or the bayous falling into it, with the River Mississippi, by means of locks or otherwise, upon such terms and conditions as they may be able to make with front proprietors, with the parish authorities constituted by law, or the corporate authorities of the city, as the case may be.

SEC. 16. *Be it further enacted*, That the said corporation shall have power to make, establish, repair, and keep a railroad with branches of any kind and description now in use, or any new invention of, or improvement in relation thereto, that may hereafter take place, to communicate from beyond the line of the Pontchartrain road, and any point or points between the River Mississippi, the Gentilly and Chef Menteur road, and extending to and in the parish of St. Bernard: *Provided, nevertheless*, That said company shall not lay said railroads on any point subject to the jurisdiction of the city council of New Orleans, so as to impede in any way the exercise of said jurisdiction; and if it should be necessary for the making and establishing said railroads, for the said corporation to become possessed of lands, it shall and may be lawful for and it is hereby empowered to acquire the same in the same manner to all intents and purposes, as it is prescribed by the seventh section of the said act incorporating the said Lake Borgne Navigation Company; that the said corporation shall have the power to place on said roads, toll-gates, fences, and everything necessary to collect the tolls hereinafter mentioned and allowed; that it may place, and use thereon, all kinds of carriages, cars, or other means of conveyance for

goods, wares and merchandise, and produce of all kinds, that are now in use or may be hereafter invented and propelled by steam, or in any other way whatever; and the said corporation shall be allowed to demand and receive tolls not exceeding the following, viz:

For the transportation of any kind of goods, wares and merchandise, or any kind of produce, not exceeding ten cents per mile, for each ton by weight or measurement; and six and a quarter cents per mile for each and every passenger.

For all transportation and passage less than a mile, the same toll may be demanded as if the whole mile had been traversed.

Where a road, to be made or constructed by the said company, shall traverse a public highway, it shall be the duty of the said corporation to make and construct, without delay, all necessary works to enable the public use, without any kind of obstruction or inconvenience, of the ordinary highway at all such points of intersection, and at all times to keep the same in repair; and if the said works should not be made at any such point, or should be suffered to be out of repair for more than twenty-four hours at any one time, it shall be the duty of any public officer charged with the superintendence or police of said highway, to cause the same to be made or repaired at the expense of said corporation.

SEC. 17. *Be it further enacted*, That thirty days after opening the books of subscription, as is hereinbefore provided, if twelve thousand shares shall then have been subscribed or as soon thereafter as the said number of twelve thousand shall be subscribed, the commissioners appointed to receive the subscriptions, shall advertise in two newspapers published in New Orleans, that thirty days after, an election will take place for fifteen directors, nine of whom shall be at all times elected from the parish of Orleans, two from the present limits of the first congressional district other than the parish of Orleans, two from the second congressional district, and two from the third congressional district; and on the day named in the said advertisement, the said fifteen directors shall be elected by the subscribers, who shall have become so, previous to, and on the day that the said notice shall have been first given, and who shall have owned and possessed the property on which they have so subscribed, at

least six months previous to the passage of this law; at which said election each of the said subscribers shall vote in person or by proxy, and shall have a right each to one vote, without regard to the number of shares he may have subscribed for. The said fifteen directors, thus elected, shall appoint their own president, and shall be and remain directors of said corporation until the first Monday in February next ensuing the said election; that as soon as the said fifteen directors have been thus elected and the president named, the functions of the said commissioners shall cease, and it shall be their duty to deliver over to the said directors, the books of subscription and all papers and documents, of what nature soever, that may have come to their possession; that any subscriber who shall have subscribed for fifty shares, and who shall be a citizen of this State, and who shall have at the time of subscribing exhibited satisfactory titles to property of a value sufficient to secure the same according to the rules and regulations herein prescribed, and who shall have been the owner and possessor of said property at least six months previous to the said subscription, shall be eligible as a director; that all subsequent elections for directors of the said corporation shall take place on the first Monday in February in each year; that the said elections shall be held under the superintendence of five commissioners to be named by the board of directors then in office; that the board of directors shall cause public notice to be given of such election, at least thirty days before the time appointed, in at least two newspapers in the city of New Orleans; every stockholder shall have the right to vote in person or by proxy, and shall be entitled to one vote for each share he shall have been the holder of, at least six months preceding the said election: *Provided*, the same shall not exceed fifty; no person shall be permitted to vote by proxy or authorization of others in any manner, a greater number than three hundred votes. In case it should so happen that any two or more persons should have an equal number of votes, then, and in that case, the five commissioners shall, by ballot among themselves, decide between them, so as to fill up the number of fifteen as required herein. At any such election all persons shall be eligible and may be elected directors, who shall be citizens of this State, who shall have possessed in his own name, and in good faith, fifty shares of the stock of said bank for at least six months previous to

the said election, and who shall have complied with all the requisitions of this act in relation thereto. The fifteen directors, thus elected, shall enter into office on the Monday next after their election, until which time the preceding direction shall continue, and shall, as soon after as possible, elect their president from among themselves.

In no case shall two partners, in any mercantile or other concern, be directors at the same time; nor shall a director of another bank be, at the same time, a director of this corporation. If it should so happen that any of the elections herein provided for, should not take place at the time herein specified, the said corporation shall not, for that cause, be dissolved, but it shall be legal and right to proceed to the said election at any subsequent time to be appointed by the preceding board of directors, whose functions shall continue until such election shall take place, and the new board installed.

SEC. 18. *Be it further enacted*, That all the powers, rights and authority granted by this act, shall be, and the same are hereby vested in the president and directors of said corporation, who are hereby authorized to make such ordinances, rules, regulations and by-laws, as they may judge necessary for the good administration of the affairs of said corporation; to repeal, alter or amend them at their will; to appoint committees from among themselves to superintend each branch of their administration; to grant to them such powers as they may judge proper; and the same to change, alter, or revoke, at their pleasure. They may appoint and employ all such officers and servants as they may judge necessary, in all and every branch of their business, and pay them such salary and wages, as they may think proper; exact of each, or any of them, such bonds and security for the faithful discharge of the duties assigned them, and make such conditions and rules in relation thereto, as they may think proper; they may fill up all vacancies occurring in their own body by resignations, deaths, absence from the State without proper authorization, bankruptcy, suspension of payments, demands for respite, or any other legal cause: *Provided*, That the said rules, regulations, by-laws, and ordinances, which the said board of directors may adopt, be not repugnant to the provisions of this charter.

SEC. 19. *Be it further enacted*, That on the last Monday in January of each year, and during the ensuing week, every

stockholder in the said corporation shall have the right to examine into its situation; and, for this purpose, it shall be the duty of the direction to furnish to any applicant, for that purpose, all the information necessary to obtain a knowledge of its affairs and situation. And it shall further be the duty of the president of the said corporation, on the demand in writing, setting forth the object of any twenty or more stockholders, being owners of one-tenth of said corporation, to convoke a general meeting of the stockholders, to take into consideration and deliberate upon matters submitted to them.

SEC. 20. *Be it further enacted*, That it shall be the duty of the board of directors to appoint, in each parish of this State, commissioners, whose duty it shall be to examine and appraise the property of all persons who shall subscribe to the stock of said bank, or who shall desire to make loans on mortgages therefrom, who shall make the appraisements in such form or manner, as the said board of directors shall require, and deliver certificates thereof to any subscriber or applicant, on oath, to be taken before the judge or some magistrate of such parish.

SEC. 21. *Be it further enacted*, That the said corporation shall never issue any bill or note of less amount than five dollars; that all bills or notes which shall be made payable to bearer, shall pass by delivery; and that all that may be made payable to order, shall pass by endorsement of the payee.

SEC. 22. *Be it further enacted*, That the said corporation shall never suspend the payment of any of its notes, bills, or obligations, in gold or silver currency of the United States; and that if, at any time, they should so refuse, the holder, or person entitled to demand the same, shall and may recover from the said corporation, damages at the rate of ten per centum per annum for the delay.

SEC. 23. *Be it further enacted*, That it shall be the duty of the directors of said corporation to keep one or more books, in which shall be enregistered all the deliberations, ordinances and regulations, and all the by-laws they may make; that the legislature of this State shall, at all times, by committee or otherwise, have access thereto, as well as to all the other books and papers belonging thereto, so as, at all times, to ascertain the true state and condition thereof.

SEC. 24. *Be it further enacted*, That the board of directors

of said corporation shall have the sole and exclusive right to decide on the title to, and value of, property offered as security for stock subscribed for, or money to be borrowed on mortgage; and may reject the same, or reduce the stock or loan to the true value thereof, in their judgment or discretion. They may exact from all subscribers answers on oath, to all interrogatories they may propound to them, touching their titles, or any other matter and thing necessary to be known for the safety of the institution, and the perfect security of the stock or loans demanded.

All mortgages given for the security of stock, or for loans, shall bear an interest at the rate of ten per centum upon the whole or any part thereof, if not punctually paid when due or demandable; and all property mortgaged to the said corporation for any purpose, may be seized and sold at any time, according to law, in whosesoever hands or possession the same may be found, notwithstanding any alienation thereof, or change of possession by succession or descent to heirs, or legatees, by last will and testament, or otherwise, in the same manner as if the same was in the possession of the original mortgagor.

SEC. 25. *Be it further enacted*, That in all contracts or mortgages entered into by any person or persons with the said corporation, for any of the purposes mentioned in this act, if any such person or persons should be married, it shall and may be lawful for the wife or wives of such person or persons, to join in the said contract or mortgage, and to bind themselves conjointly and *in solido*, with their husbands, and to renounce, cede, mortgage and hypothecate her rights, privileges, or property, as well dotal as of any other nature or kind whatever: *Provided, however*, That they be above the age of majority at the time of the execution of said contract or mortgage; and in case either husband or wife, or both, should be minors, the same may be done by the advice and consent of a family meeting, convened according to law.

SEC. 26. *Be it further enacted*, That if any person or persons who shall have granted mortgages to the said corporation for any of the purposes mentioned in this act, or any person or persons who may be in possession of any property of any kind, by whatever title the same be held, that may have been so mortgaged, should fail, become bankrupt, or make a cession of goods, either voluntary or forced, judicially or extrajudicially, for the benefit of creditors or otherwise, any

property so mortgaged shall not be considered as included in said cession; nor shall the said corporation be thereby precluded or hindered from proceeding against the said property, by executory process or otherwise, according to law, and causing the same to be seized and sold to satisfy the debt or demand aforesaid; nor shall any respite, forced or voluntary, judicially or otherwise obtained, in any manner hinder or prevent the like proceedings.

SEC. 27. *Be it further enacted*, That if any stockholder in the said corporation should fail, become bankrupt, or make a cession of goods, he shall no longer be a stockholder; and the board of directors shall be, and are hereby, authorized to sell the share or shares, which any such person may hold, and transfer the same to the purchaser in full right.

SEC. 28. *Be it further enacted*, That the mortgages granted by the stockholders of the said corporation, as hereinbefore provided, to the amount of fourteen millions four hundred thousand dollars, shall remain and be preserved as a pledge for the final payment of the loan of twelve millions of dollars, to be made by the said corporation, as hereinbefore provided, with all the interest that may accrue thereon until the final payment and redemption of all and every of the bonds to be issued for the same, by the said corporation as hereinbefore mentioned, both capital and interest; that if any stockholder should sell, or desire to dispose of his stock, he shall be at liberty to transfer the same, and be discharged from all responsibility: *Provided*, the person to whom he offers to transfer the same, shall furnish a mortgage to the satisfaction of a majority of all the directors; and in all such cases of transfer and discharge, a special record of the proceedings shall be kept, and the name of each director present, and his vote on the question enregistered.

SEC. 29. *Be it further enacted*, That all the profits made by the said corporation, shall be added to and made a part of its capital, with the exceptions of such repartitions or dividends thereof, as are hereinafter provided for; and whereas the bonds which the said corporation is authorized to emit, are redeemable in five series, at five distinct periods, as hereinbefore provided, it shall be the duty of the directors immediately after the payment and redemption of each series of the said bonds, to divide among the stockholders one-fifth of the profits made up to that time, if any there be, after deducting one-fifth of the costs of all works made

for the establishment of roads and canals which are authorized by this act; and out of the balance of said profits there shall be applied to loans on mortgages, or notes executed by persons residing in the parishes of the State, other than the parish of Orleans, the proportion to which they are entitled according to their subscription.

SEC. 30. *Be it further enacted*, That at the expiration of the charter of the said corporation, as fixed by this act, if the said corporation shall have acquired the rights, privileges and advantages mentioned in the fourteenth section of this act and shall have had the peaceable and quiet enjoyment thereof, it shall be the duty of the said corporation to deliver up to the State of Louisiana, all the canals and the appurtenances thereto, or dependencies thereon, mentioned in the fifteenth and eighteenth sections of the act of incorporation of the Lake Borgne Navigation Company, to which it is by the said fourteenth section of this act, authorized and empowered to subscribe on the conditions therein mentioned; also, all roads, of whatever description, that may have been made or executed, as well as all the machinery, cars for transportation, and all other dependencies thereon, together with all the rights of tolls, and all and every other privileges attached thereto, which shall then become the full property of the said State, in consideration of which said cession, or in lieu thereof, the bonus mentioned in the fifteenth section of this act, the said corporation shall, during its existence, be exempt in its capital and property, which it may acquire by virtue of any of the provisions of this act, from all taxes to the State, or to any parish or corporation, created by law of this State; and this charter shall continue for and during the space of fifty-one years from the passage thereof.

SEC. 31. Omitted as unimportant.

Approved April 1, 1833.

AN ACT amendatory and supplementary to the several acts relative to the "Act to incorporate the Citizens' Bank of Louisiana; approved January 30, 1836."

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened*, That in order to facilitate the Citizens' Bank of Louisiana in the negotiation of the loan of twelve millions of dollars, authorized by the act of incorporation of the 1st April, 1833,

the faith of the State is hereby pledged for the security of the said sum of twelve millions of dollars, or such part thereof as may be required by the said bank.

SEC. 2. *Be it further enacted*, That bonds for the sum of three millions of dollars, with the privilege of extending the same to twelve millions of dollars, shall be subscribed to the order of the president and directors of the Citizens' bank, signed by the governor, and countersigned by the secretary and treasurer of state, and under the seal of the State—said bonds to be in series of 14, 23, 32, 41 and 50 years from the 1st of February, 1836, and in the following words:

($444.44,) (one hundred pounds sterling,) (1,200 guilders,)

"Know all men by these presents, that the State of Louisiana acknowledges to be indebted to the Citizens' Bank of Louisiana, in the sum of one hundred pounds sterling, ($444.44,) (1,200 guilders,) which sum the said State of Louisiana promises to pay to the order of the president and directors of said bank on the —— with interest at the rate of five per cent. per annum, payable half yearly, at the place and in the current money named in the endorsement hereto, on the first of February and first of August of every year, until the payment of the said principal.

"In testimony whereof, the governor of the State of Louisiana has signed, and the secretary and treasurer of the State have countersigned these presents, and the seal of the State has been affixed thereto, at New Orleans, this —— in the year of our Lord, —— and of the Independence of the United States of America the ——.

"—— ——, *Governor.*

"—— ——,
"*Secretary of State.*

"—— ——,
"*State Treasurer.*"

And the president and directors of the said Citizens' Bank of Louisiana shall have the option of taking bonds of one thousand dollars in the above form, and in lieu thereof. The said bonds may be transferred by the endorsement of the president and cashier of the bank, to the order of any person whatever, or bearer; and the said endorsement shall fix the current money and the place at which the said principal and interest shall be paid. All expenses attending the

issuing of said bonds shall be paid from the funds of the bank; and the compensation for issuing said bonds and affixing the seal of the State, shall be the same as that paid by the Union Bank of Louisiana.

SEC. 3. *Be it further enacted*, That for the guarantee of the bonds to be emitted by the State, in favor of the Citizens' bank, and of the interest thereof, and for which the State pledges its faith, all the securities granted by the act of incorporation of said bank, and especially by the 3d and 4th sections of said act to the holders of its bonds, are hereby transferred to the State and the holders of the bonds which may be issued in virtue of this act; and the governor shall only emit the State bonds after it shall have been proved to him by the certificate of the president of the bank, that mortgages have been subscribed by the stockholders of said bank, in conformity with the charter, for at least one-fifth more than the bonds required; and both the capital and interest of said bonds shall be paid by the bank, at the time they shall become due.

SEC. 4. *Be it further enacted*, That the State shall be entitled to the same interest in the profits of the Citizens' Bank of Louisiana as in the Union Bank of Louisiana, viz: one-sixth if twelve millions of bonds are taken, one-twelfth if six millions are taken, one twenty-fourth if only three millions are taken, which profits shall be paid into the treasury of the State, at the same time and in the same proportion as those belonging to the stockholders. The whole amount of these State profits shall be appropriated to the benefit of free schools, agreeably to the population of each parish, which shall be ascertained by a census taken every four years in such a manner as the legislature may hereafter designate; and the capital of said bank shall be exempt from any tax laid by the State, or by any parish or body politic under the authority of the State during the continuance of its charter.

SEC. 5. *Be it further enacted*, That for the management of the affairs of said Citizens' bank, there shall be hereafter twelve directors, six of whom shall be annually appointed by the joint ballot of both houses of the legislature, on the last Monday of January in each year, or as soon thereafter as practicable, should the appointment not have been made on that day; and the other six shall be elected every year by the stockholders, on the first Monday of February, in the

manner provided by the charter of said bank. The directors shall be selected from among the citizens of this State, having the qualifications required by said charter; but without any reference to their place of residence; provided they shall be actual citizens of the United States for the last five years preceding their elections, and have been residents of the State for the same lapse of time; and that two partners shall not be eligible as directors of the said company at the same time, or serve in the same direction; nor shall a director of any other bank or his partner be eligible as a director of this company. *And provided, also,* That at least one director shall be chosen from each congressional district. In case of vacancy from office of any director, said vacancy, if from the State directors, shall be filled by the General Assembly, or by the other directors appointed by the State, should the legislature not be in session at the time; if from among the directors elected by the stockholders, it shall be filled by the board of directors; and the present board of directors shall continue in office until the second Monday of February, or until their successors are qualified to act.

SEC. 6. *Be it further enacted,* That the legislature shall have power at any time to appoint a committee to examine the books of deliberations, regulations, and ordinances, and more particularly to ascertain the amount of cash, the amount of notes in circulation, the balance due to and by the bank, and all the affairs of the institution, so as to be enabled to make a true report thereof to the legislature. And that after each successive election for directors shall have taken place at the annual elections, and before the persons elected shall enter on their duty, they shall examine the condition of said corporation, and sign triplicate receipts to their predecessors in office, setting forth the amount in specie on hand, the amount of notes in circulation, the amount of debts due to and by said corporation, and by and to whom, and of all other property of every kind and description which the said company may own, showing the true condition of the institution at the time they shall have taken charge thereof; and that the president of said company shall annually, within the first week thereafter, furnish the president of the senate, and the speaker of the house of representatives, each, with one of the said triplicate receipts, which shall be spread upon the journal of both houses of the General Assembly.

SEC. 7. *Be it further enacted*, That the 14th section of the act to incorporate the Citizens' bank, authorizing the subscription to the capital stock of the corporation known by the name of the Lake Borgne Navigation Company, the 15th section of said act fixing a penalty for not digging the canal therein described, and all provisions in said act relative thereto, be, and are hereby repealed.

SEC. 8. *Be it further enacted*, That books of subscription to complete the capital stock of said Citizens' bank shall, as soon as practicable, after the promulgation of this act, be opened for at least four millions of dollars, to be subscribed for under the inspection of three commissioners to be appointed by the board of directors, at the court-house of each of the parishes of the State, except the parish of Orleans. Said commissioners shall give twenty days' previous notice by advertisements in the newspapers there published, of the time when and the place where the said books shall be opened. They shall have the same power and authority granted by the charter of said bank to the commissioners appointed to receive the original subscriptions; but they shall receive no subscriptions from the present stockholders of the bank; and subscription shall also be refused on property situated in the parish and city of New Orleans; provided, that only those who reside out of the city of New Orleans shall subscribe for any part of said four millions; *And provided, also*, That no property situated in the country shall be offered as security for city stock, or property situated in the city for stock secured to the country. Said books of subscription shall be kept open every day from 10 o'clock a. m., until 3 p. m., (Sundays excepted,) during 90 days. At the end of which time they shall be closed, and the commissioners shall, as soon thereafter as practicable, send to the directors in New Orleans the said books of subscription, together with the titles and documents that may have been deposited with them. Should the subscriptions have exceeded the sum of 4,000,000 of dollars, or such other sum over and above four millions as may become available after the reduction required at the end of that section, then the directors shall deduct the surplus according to the rules laid down in the act to incorporate the Citizens' bank, and should the whole amount of forty thousand shares not have been taken, it shall be their duty to cause the books to be opened again in the manner and form provided for, with

this difference only, that for this second opening of the books, commissioners shall also be appointed for the parish and city of New Orleans; and the present stockholders of the bank shall also have the right of subscribing, and that subscriptions on property situated in every part of the State shall then be admitted until the whole of said four millions of dollars shall have been subscribed; and should it become necessary, in order to open the books of subscription for four millions of dollars as above required, to reduce the shares of the present stockholders, said reduction shall be made according to the rules above referred to; *Provided*, That the present subscribers or stockholders of the bank shall not be entitled to hold more than two thousand shares each; and if after they are reduced to that number of shares, a sum of more than four millions should become available, said sum shall also be opened for subscription as stated above. And besides the opening of the books above mentioned, for four millions of dollars or more; and as soon as the highest stockholders in every part of the State shall have been reduced to two thousand shares, another reduction shall take place on the stock secured on property situated in the parish and city of New Orleans alone, so as to produce an additional sum of two millions five hundred thousand dollars, for which books of subscription shall be opened at the banking-house, in the parish and city of New Orleans, at the same time and in the same manner as has been above prescribed in the present section for subscriptions to be taken in the country; with this difference, however, that for that sum of $2,500,000 subscriptions shall be received only on property situated in the parish and city of New Orleans; and that at the second opening of the books, if that subscription of two millions five hundred thousand dollars, which is granted for the sole use and benefit of the citizens of the said city and parish, was not taken at the first, the present stockholders of the bank who reside therein, shall also have the right of subscribing: *And provided, also*, That the several reductions mentioned in the present section shall be made so as to entitle the country to the sum of seven millions two hundred thousand dollars, after adding to the four millions of new subscriptions, the total amount of the sum to which the present stockholders of the bank shall have been reduced in the country, and that likewise the new subscriptions of two millions five hundred thousand dollars, opened for the par-

ish and city of New Orleans, added to the sum to which the stock now received on property therein situated shall be reduced, shall also form a similar sum of seven millions two hundred thousand dollars. *And provided*, That no person or persons who are not free white citizens of the United States, and domiciliated in the State of Louisiana, shall be either directly or indirectly owner of any part of the capital stock of said company.

SEC. 9. *Be it further enacted*, That the rate of discount of said Citizens' bank shall be as follows, to wit: On all stock loans, six and a half per cent.; on all notes not having more than 124 days to run six per cent.; on all loans over 124 days, seven per cent.

SEC. 10. *Be it further enacted*, That said bank shall be bound as a condition of the present act to pay during the time of their charter, five thousand dollars per annum, to each of the following colleges, in the three congressional districts, viz: To the College of Jefferson, in the parish of St. James; to the College of Franklin, in Opelousas; and to the College of Jackson, in the parish of East Feliciana; in consideration of which sums, said colleges shall be bound to receive, each, ten pupils, to be selected by the trustees of each of said colleges amongst persons residing within the congressional districts within which said colleges are respectively located, free from any charge for their board, tuition, and complete course of education.

SEC. 11. *Be it further enacted*, That out of the sum of seven millions two hundred thousand dollars, allotted to the country, the balance remaining after the stockholders shall have received the amount they are entitled to, shall be equally divided between the three congressional districts, to be loaned out on mortgages on real property, according to the rules laid down by the seventh section of the act incorporating said Citizens' bank, for the guarantee of its stock. No loans shall be made for more than fifty per cent. of the cash value of the property offered, nor upon any mortgaged property, unless for the purpose of paying said mortgages and giving a clear title to the bank. The sum coming to each district shall be loaned according to the proportion to which each of the parishes in that district, except the parish of Orleans, may be entitled to, according to the tax-list; and there shall be appointed annually by the board of directors of said bank, to loan said money as prescribed in the

present section, the following commissioners, to wit: Five commissioners who shall meet at Donaldsonville, for all the country parishes in the first district; five commissioners to meet at Covington, for the parishes of St. Tammany, Washington, St. Helena and Livingston; five commissioners for the parishes of Iberville and East and West Baton Rouge, to meet in the town of Baton Rouge; five commissioners for the parishes of East and West Feliciana and Point Coupée, to meet in the town of St. Francisville; five commissioners to meet in St. Martinsville, for the parishes of St. Mary. St. Martin, Lafayette and St. Landry; five commissioners to meet at Alexandria, for the parishes of Avoyelles, Rapides and Catahoula; five commissioners to meet at the town of Providence, for the parishes of Carroll and Concordia; five commissioners to meet at the town of Natchitoches, for the parishes of Natchitoches and Claiborne; and five commissioners to meet at the town of Monroe for the parish of Ouachita. There shall be appointed a notary and an attorney for each of the places where the commissioners are to meet; and the commissioners shall organize themselves as a board, and appoint one of them as president. It shall be the duty of said board of commissioners, whenever applications shall be made to them for loans, to have the property offered appraised under oath, according to the 20th section of the charter of said Citizens' bank; and when said appraisement shall have been confirmed by a majority of the board of commissioners, and the titles approved by the attorney, then the president of the board of commissioners shall have the mortgage bond executed before the notary, and shall transmit the appraisement, titles, mortgage bond, and other documents relative to the loan to the Citizens' bank, when the money loans shall be paid to the parties loaning. And the attorneys shall follow in the examination of titles, the same rules laid down by the Citizens' bank, for the examination of the titles of property given in guarantee for stock. Those loans shall be made for a term of twelve months, with the privilege of renewing the same at the end of each year for fourteen years, on paying one-fourteenth of the original amount at each renewal. And it is well understood that in case the whole seven millions two hundred thousand dollars of stock, allotted by this act to the country, should not be taken, the sum of three millions of dollars shall still be

loaned as provided for in this section. *And provided*, That the amount to be allowed to the parishes composing the 17th senatorial district shall not be less than four hundred thousand dollars, and that the attorney and commissioners shall be residents of said district, and shall have been so for at least twelve months previous to their appointments: *Provided*, That such commissioners for the country, as are provided for in this section, shall be at the time, and for the last five years previous to their appointment, actual inhabitants of the parishes for which they shall be selected, and citizens of the United States.

SEC. 12. *Be it further enacted*, That property already mortgaged shall be taken as security by said bank, provided that the board of directors shall previously deduct from the total amount of valuation of the property, at least double the amount of mortgages existing on the property, and shall only grant stock on the surplus of the valuation, the above deduction having been made: *Provided, however*, That the mortgage existing on said property shall not prevent the board of the bank from receiving the same as security for the capital whenever the sum to be received by the stockholder or borrower is to be employed in the extinction of the said mortgage or mortgages.

SEC. 13. *Be it further enacted*, That the appropriation made by the 10th section of this act in favor of the colleges therein mentioned, shall be paid by the bank out of the profits to which the State is entitled, and only at such time and in such proportions as those profits shall be due to the State. It being well understood that the appropriation in favor of colleges shall be paid in such a manner as neither to augment the proportion given to the State in the profits of the bank, nor to diminish any of the securities given by the act incorporating the Citizens' bank, to the holders of its bonds, anything in the above-mentioned section or in any other part of this act, to the contrary notwithstanding.

SEC. 14. *Be it further enacted*, That every person or persons who have offered or may hereafter offer security for the stock for which they shall have subscribed, which security shall have been declared insufficient by the proper officers of the company, or which shall not have been decided on by such officers, shall have the right of appealing to the district court by simple motion, after ten days' service

thereof on the president of said company, which motion shall be tried by said court, by jury or otherwise.

SEC. 15. *Be it further enacted*, That every person filing title papers with the said company or any of the commissioners, shall be allowed to withdraw them at any time after thirty days, and the said company shall be allowed to take copies of all such title papers at their own expense.

SEC. 16. *Be it further enacted*, That the provisions of the act entitled "An act to incorporate the Citizens' Bank of Louisiana," approved April 1st, 1833, as well as all laws or parts of laws which may be inconsistent with the present act be, and the same are, hereby repealed.

SEC. 17. *Be it further enacted*, That the bonds authorized to be issued by this act, shall be negotiated and sold within two years from the date of their emission, provided par can be obtained; otherwise said bonds shall be and remain null and void, and shall not thereafter be negotiated.

SEC. 18. *Be it further enacted*, That the banking-house of the company shall be erected in the city of New Orleans at some point above Toulouse street and below Poydras street.

SEC. 19. *Be it further enacted*, That no part, section, or clause of this act, shall go into operation until the whole shall have been accepted, and official notice thereof given, by the president and directors of the Citizens' Bank of Louisiana, to the governor, and should said notice of acceptance not be given within fifteen days after the passage of this act, the same shall be considered null and void, otherwise it shall have the same force and effect as the original charter accorded to the bank.

Approved 30th January, 1836.

No. 141.

AN ACT for the relief of the Citizens' Bank of Louisiana.

Act of 1852.

Whereas, the State of Louisiana is now responsible for bonds issued in favor of the Citizens' Bank of Louisiana, for a sum exceeding six millions of dollars, together with accruing interest thereon, and whereas the present condition of said bank is such as to expose the State to loss from the

inability of said bank to meet the payment of said bonds and interest, if the liquidation of the bank be continued on the system now established by law; and

Whereas, the managers appointed by the State for said bank have represented that the stockholders will be enabled to secure the State from the said risk of loss, if they be restored to the control and administration of the affairs of said bank, with the rights, privileges and immunities possessed by said bank at the date of the decree of forfeiture rendered against it in the first district court of New Orleans, now the fifth district court of New Orleans, on the eighteenth day of October, eighteen hundred and forty-two; Now, therefore:

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened*, That the said Citizens' Bank of Louisiana be and the same is hereby relieved from the decree of forfeiture rendered against it at the suit of the State in the first district court of New Orleans, now the fifth district court of New Orleans, on the eighteenth day of October, eighteen hundred and forty-two, and the administration and conduct of the affairs of said bank, shall be restored to the stockholders thereof in the same manner, with the same rights and privileges, to the same extent and with the same restrictions as if said decree of forfeiture had never been rendered.

SEC. 2. *Be it further enacted, &c.*, That this act shall not take effect until the said Citizens' Bank of Louisiana shall have restored to the governor of the State bonds of the State to the amount of eight hundred thousand dollars ($800,000) and shall have raised, by contribution from its stockholders, independently of its present means, additional assets for at least eight hundred thousand dollars ($800,000).

SEC. 3. *Be it further enacted, &c.*, That for the purpose of making the new arrangements for complying with the conditions of the preceding section, a meeting of the stockholders shall be called by the board of managers, by notice published for thirty days in a newspaper in New Orleans, for the election of three commissioners, who shall be *bona fide* stockholders of the bank at the date of their election, and who shall serve without compensation until said conditions shall have been fulfilled.

SEC. 4. *Be it further enacted, &c.*, That the said commissioners shall have the power of negotiating with the bond-

holders for the surrender of the whole or any part of their bonds on such terms, conditions and stipulations as may be agreed upon between said bondholders and commissioners; said commissioners to be also authorized to extend any part of the principal of the debt maturing between this and the first day of August, eighteen hundred and fifty-five, inclusive; provided said extension shall not be for more than five years; and that the said commissioners shall have the power of calling on the stockholders for contributions on their stock, in order fully to supply the deficiency now existing in the assets of said bank, and to form an additional security for the circulation, which contributions shall not exceed twelve dollars ($12) per share, including the installment already called in, and shall be payable in such sums, at such times and on such conditions as shall be determined by said commissioners; the installments of said contribution to bear eight per cent. per annum, from the time they shall be made payable, and the payment of the same to be enforced by executory process, as in cases of confession of judgment.

SEC. 5. *Be it further enacted, &c.*, That it shall be lawful for any holder of the bonds issued to said bank, whether a citizen of the State or not, to become a stockholder in said bank, by surrendering the bonds of the State to be cancelled and receiving in exchange therefor bonds of the banks or certificates of stock paid in. The stock to be received by said bondholder to bear the same proportion to the whole amount of the stock of the bank, as the bonds surrendered by him bear to the whole amount of the outstanding bonds of the State; and the stock received by such bondholder, shall be transferred to him out of the stock held either by the bank or by any stockholder whose mortgage for stock shall thereupon be cancelled to an amount equal to that of the stock transferred by him, leaving however the same property subject to mortgage for any debt due by him for loan on the stock.

SEC. 6. *Be it further enacted, &c.*, That this act shall not take effect until it shall have been accepted by the written vote of a majority of the stockholders in number and amount.

SEC. 7. *Be it further enacted, &c.*, That when this act shall take effect on a compliance with all its provisions, an election of directors shall be held according to its charter for five directors, one of whom to be elected by the stockholders

who shall have exchanged their bonds for stock for at least eight hundred thousand dollars ($800,000) as aforesaid, and four by the remaining stockholders; and two directors shall be appointed by the governor, by and with the advice and consent of the senate, if then in session; and the seven directors chosen shall form the board of directors of said bank, into whose possession the said bank shall then pass, to be administered and conducted according to its charter and under the same obligations and restrictions imposed by law upon all banks in this State.

SEC. 8. *Be it further enacted, &c.*, That in all suits or contestations which may arise under the provisions of this act, it shall be the duty of the inferior and appellate courts to grant a summary trial, and in as short a delay as may be consistent with the proper administration of justice in the cause.

NOTE.—This act was returned, on the first of March, eighteen hundred and fifty-two, with the governor's objections, to the senate in which it originated, and on the tenth of the same month, as appears by duly certified extracts from the journals of both houses of the General Assembly, it passed by the constitutional majority, notwithstanding the objections of the governor.

No. 246.

AN ACT to authorize the Citizens' Bank of Louisiana to convert shares secured by mortgage into cash shares, approved April 28, 1853.

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened*, That the board of directors to be elected under the act of tenth March, eighteen hundred and fifty-two, entitled "An act for the relief of the Citizens' Bank of Louisiana," shall have power to raise one million of dollars, by obtaining the payment in cash of ten thousand out of one hundred and forty-four thousand shares composing the capital stock of said bank, and for that purpose, the said board of directors are hereby authorized to set apart, to be disposed of as hereinafter stated, a proportion of the stock held by each stockholder, not exceeding one out of every fifteen shares; which shares so set apart, together with such pro-

portion of the stock now held by the bank as will make up ten thousand shares, are to be paid in full at the time and in the manner to be determined by the board in order to constitute a cash stock: *Provided*, the mortgages existing against the stockholders to secure the portion of the stock so set apart, shall not be thereby considered as raised, and the contribution due on the same shall remain as heretofore, payable by each of them respectively.

SEC. 2. *Be it further enacted, &c.*, That those who shall become, as hereinafter provided, the owners of said cash stock, shall be designated as the cash stockholders of the bank, and shall, besides any yearly interest which they may receive on the stock so paid in, if any be allowed, share in the profits or losses of said bank, in the proportion of the amount of said stock paid in, to the amount of the available banking assets of the bank, to be estimated and fixed by the board of directors, and on such terms and conditions as shall be determined by said board; the same when so determined to be binding on and between the holders of said cash stock and mortgage stock respectively: *Provided*, the profits accruing to the mortgage stock shall be divided only at such times, in such proportion and with such participation of the State therein, as is provided by the charter of said bank, and by the act entitled "An act amendatory and supplementary to the several acts relative to the Citizens' Bank of Louisiana," approved thirtieth January, one thousand eight hundred and thirty-six.

SEC. 3. *Be it further enacted, &c.*, That subscriptions towards constituting the said cash stock, shall be received at the office of said bank in New Orleans, under the superintendence of the board of directors, after thirty days' previous notice of the terms and conditions agreed upon by said board, which shall be considered as binding upon the subscribers. The subscription shall continue open every day, Sundays excepted, for the term of thirty days, between the hours of ten o'clock, a. m., and two o'clock, p. m., at the expiration of which term, the directors, or a majority of them, shall proceed to take an account of said subscriptions, and if any more than ten thousand shares have been subscribed, the said directors shall deduct the amount of such excess from the largest subscription, in such a manner that no subscription shall be reduced in amount while any one remains larger: *Provided*, That subscription by any stock-

holder shall not be reduced below the number of shares set apart from the stock owned by him, to constitute said cash stock. But in case ten thousand shares be not subscribed during the said thirty days, then the subscription book may be reopened, either on the same or on different conditions, at any time the board shall determine.

SEC. 4. *Be it further enacted, &c.*, That the seventeenth section of the charter of said bank is hereby so amended, that at all elections for directors after the acceptance of this act, stockholders on the mortgage stock shall be entitled to the following number of votes, viz: On from one to twenty-five shares, to one vote per share; on from twenty-six to fifty shares, to thirty votes; on from fifty-one to one hundred shares, to thirty-five votes; and on every additional one hundred shares, to five additional votes.

Every holder of cash stock shall be entitled to one vote for each share, and shall be eligible as director, provided he shall own twenty-five shares at the time of such election.

SEC. 5. *Be it further enacted, &c.*, That this act shall be in force only after having been accepted in writing by a majority in number and amount of the stockholders of the Citizens' Bank of Louisiana.

Approved, April 28th, 1853.

No. 45.

AN ACT relative to contributions to be raised by the Citizens' Bank of Louisiana and the resale of property purchased on foreclosure of stock mortgages, approved March 11, 1873.

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened*, That the directors of the Citizens' Bank of Louisiana be, and they are hereby authorized and instructed to call on the mortgage stockholders for such contributions on their stock as the board may deem necessary to assure the prompt payment of the interest on bonds of the State issued in favor of said bank, which contributions shall be payable in such sums, at such times and on such conditions as shall be determined by the board of directors, and shall bear eight per cent. interest per annum from the time they shall be made payable; provided, however, that no call shall exceed two

dollars per share in any one year, and the payment of the same to be enforced by executory process as in cases of confession of judgment and according to the charter of said bank.

SEC. 2. *Be it further enacted, &c.*, That on the resale by the Citizens' Bank of Louisiana, of property acquired by virtue of foreclosure of stock mortgages, it shall be lawful for the board of directors to sell the same either with or without the stock attached thereto; provided, that all moneys derived from the operations of this act shall be applied exclusively to the payment of the bonds of the State issued in favor of said bank, and the interest coupons thereon.

SEC. 3. *Be it further enacted, &c.*, That this act shall take effect from and after its passage.

(Signed) CHARLES W. LOWELL,
Speaker of the House of Representatives.
(Signed) C. C. ANTOINE,
Lieutenant Governor and President of the Senate.

Approved March 11, 1873.
(Signed) WILLIAM P. KELLOGG,
Governor of the State of Louisiana.

A true copy.
P. G. DESLONDE,
Secretary of State.

EXTENSION OF CHARTER.

Act No. 40 *of* 1874.

Whereas, by reason of the great loss suffered by the agricultural interest of the State in consequence of the late war, it would be ruinous for the stockholders to pay within the next thirteen years, before the limitation of the charter of the Citizens' Bank of Louisiana, the amount of arreared installments and interest due by them, as well as the balance of their indebtedness; and

Whereas, *the sacrifice of the lands mortgaged for the payment of the State bonds issued in favor of the bank would endanger the security of the State; and*

Whereas, it is the *interest of the State that a prolongation of*

the charter of the Citizens' Bank of Louisiana be allowed so as to enable said institution to collect the debts due by the stockholders and thereby facilitate the payment of the State bonds.

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Louisiana, in General Assembly convened,* That the provisions of the thirtieth section of the act entitled "An act to incorporate the Citizens' Bank of Louisiana, approved April 1, 1833," which reads as follows: "And the charter shall continue for and during the space of fifty-one years from the passage thereof," be amended and re-enacted as follows: "That the charter of the Citizens' Bank of Louisiana shall continue for and during the space of twenty-five years from and after the time fixed for its liquidation by the said charter, and shall expire on the 30th of January, 1911."

SEC. 2. *Be it further enacted, etc.,* That the Citizens' Bank of Louisiana, through its board of directors, be and is hereby authorized to extend, with the consent of the holders thereof, all the State bonds issued in its favor under the second section of the act entitled "An act amendatory and supplementary to the several acts relative to the act to incorporate the Citizens' Bank of Louisiana, approved January 30, 1836," now outstanding, as well as all interest warrants issued by said bank, falling due from and after the passage of this act, and on such conditions as may be agreed upon with the holders of said bonds and interest warrants, provided said extension be not made for a longer period than twenty-five years from the respective maturities, and at no higher rate of interest than the said bonds now bear.

SEC. 3. *Be it further enacted, etc.,* That the present act shall be in force from and after its passage, any law to the contrary notwithstanding.

ACT NO. 79 OF 1880.

Whereas, due proof has been shown to the house in which this bill originated that article 48 of the Constitution has been complied with; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Louisiana,* That the Citizens' Bank of Louisiana, in addition to the powers now conferred by law, shall have power to compromise and settle the liability of the mort-

gage stockholders of said bank arising out of the stock mortgages granted by them to secure their subscriptions to the capital stock of said bank, said compromises to be made when deemed judicious by said bank and with the assent of the bondholders; provided, the same be approved by the directors on the part of the State, as provided in this act, on such terms as may be agreed upon, and when effected, the said stock mortgages to be released and cancelled.

SEC. 2. That all sums realized from said compromises, as well as from the enforcement of said mortgages, by the usual legal proceedings, shall be held and applied by the banking department of said bank to the satisfaction of the bonds of the State, issued in aid of the bank, and to the legal liabilities of said mortgage stock department, and to the necessary expenses of said department.

SEC. 3. That the directors for the State on the board of said bank shall be increased to five, to be appointed by the governor when this act shall be accepted by the bank, whose duties shall be the same as now provided by law; and in addition thereto they shall supervise the compromise, as contemplated in section one of this act, and for this purpose they shall hold meetings, when called upon so to meet by the president of the board of directors of the Citizens' bank, and shall keep a record of their meetings; and no compromises under the provisions of this act shall be effected without the approval of the majority of said directors on the part of the State.

SEC. 4. That this act shall not be binding, or confer any right upon the bank, unless accepted within twelve months from the date of this act, and under the conditions prescribed in articles 234 and 237 of the Constitution, such acceptance to be manifested by the bank in writing, and filed in the office of the secretary of state.

STATEMENT OF ASSESSMENTS AND TAXES FOR THE YEARS 1889–1892.

	Names of taxable persons.	Names of streets.	No. of lots.	Objects of taxation.				
				1. Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind.	7. Value of each share.	7. Total value of shares of stock in said association.		
1889	Citizens' Bank of La.	Sq. No. 172, Gravier, Camp, St. Charles, Commercial place.	.....	.....	14 58	40,258	State tax ..	$2,415 48
1889	Do.	Gravier ..	13–14	70,000	.....	.....	" ..	420 00
1890	Do.	Do.	.....	.....	15 58	55,466	" ..	3,327 96
1890	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	420 00
1891	Do.	Do.	.....	.....	90 91	345,676	" ..	2,419 73
1891	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	490 00
1892	Do.	Do.	.....	.....	89 58	340,600	" ..	2,384 40
1892	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	490 00
1889	Do.	Do.	.....	.....	14 58	40,258	City tax ..	813 21
1889	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	1,414 00
1890	Do.	Do.	.....	.....	15 58	55,466	" ..	1,120 41
1890	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	1,414 00
1891	Do.	Do.	.....	.....	90 91	345,676	" ..	6,982 65
1891	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	1,414 00
1892	Do.	Do.	.....	.....	89 58	340,600	" ..	6,880 12
1892	Do.	Do. do. ..	13–14	70,000	.....	.....	" ..	1,414 00

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Supreme Court of the United States.

OCTOBER TERM, 1896.

No. 108.

THE CITY OF NEW ORLEANS, THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS, AND OTHERS, APPELLANTS,

vs.

THE CITIZENS' BANK OF LOUISIANA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

No. 483.

THE STATE OF LOUISIANA EX REL. CITIZENS' BANK OF LOUISIANA

vs.

THE BOARD OF ASSESSORS FOR THE PARISH OF ORLEANS, THE CITY OF NEW ORLEANS, ET ALS.

IN ERROR TO THE SUPREME COURT OF LOUISIANA.

BRIEF FOR THE BANK, IN REPLY.

WM. A. MAURY,
Of Counsel, &c.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

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The learned Attorney for the City of New Orleans, whose brief was filed by permission of the Court in the midst of the argument, and prepared, it would seem, in circum-

stances unfavorable to a satisfactory consideration of the case, has, nevertheless, ventured to enter the discussion with what he has been pleased to term a "*new idea;*" a *brand new idea*, my learned friend might have said.

His discussion is in a field which has been frequently gone over by the Supreme Court of Louisiana and also by many eminent counsel, and it was supposed hardly possible that, at this late day, a new view relevant to the matter in hand could be suggested, especially one of a fundamental character.

After the lapse of nearly half a century, however, a new departure is for the first time suggested. The Bouny case, in which the Supreme Court of the State say that the language of section 4 of the act of 1836 "IS BROAD ENOUGH TO COVER EVERYTHING WHICH DURING ITS EXISTENCE SHOULD ENTER INTO AND MAKE PART OF THE CAPITAL OF SAID BANK," and the cases directly holding that the cash stock is not taxable, including the opinion in case No. 483, where the Supreme Court of the State say:

"We refrained from stating the effects as to the taxation of the bank's capital in consequence of act 79 of 1880. We now do the same, because we think it unnecessary to do so. *We propose to let this question as to the exemption of the bank's capital rest on the decisions heretofore rendered.*" (Rec. No. 483, p. 113.)

are to be thrown overboard. All, all, in the opinion of counsel, have missed their aim and failed to discern the great fundamental fact that the new capital, on which the cash department is based, is not within the exemption clause of the bank's charter.

I will not attempt to picture the consternation which this "new idea" would produce among the shareholders who came to the crippled bank's assistance, should it receive the approval of this Court!

It is naively suggested that the Court shall follow this new lead, after the prevalence of a different view among business men for nearly half a century! Rather will the Court, we humbly conceive, act in the spirit of the Lord Chancellor who refused to adopt the then *new idea* proposed to him, that a woman was as much entitled to dower in an equitable estate as a man to curtesy, on the ground that many estates had been purchased on the faith of the opinion that a woman was not so dowable, and this, though dower is one of the three things most favored in law.

A construction of the Constitution, even, will not be disturbed by this Court after long acquiescence, and many are the instances where the Court has refused to change the meaning given to a statute by the department of the government whose duty it was to expound and apply it.

But the argument that the bank's exemption from taxation extends only to capital "*which it may acquire by virtue of any of the provisions of this act*" (Sec. 30, 1833), is directly opposed to the other argument, from the same quarter, that the "property" of the bank ceased to be exempt because the word "*property*" was dropped from the exemption clause of Section 4 of the act of 1836, since, by parity of reasoning, all capital, whencesoever derived, has been made exempt by dropping from the Exemption Clause of Section 4 the very words relied on by counsel, namely, "*which it may acquire by virtue of any of the provisions of this act.*"

Furthermore, the argument is inadmissible, as no such

position is taken in the labored answer of the City and the Board of Assessors, which is adopted by the other defendants.

Consistency in the argument on the other side demands the very opposite of what is contended for with reference to the exemption of capital, and the learned counsel cannot be permitted to blow hot and cold at the same time. If his argument that since the act of 1836 the "property" of the bank is no longer exempt is sound, then it *must follow* that since the act of 1836 the capital of the bank, *however derived*, is exempt.

Undoubtedly all have seriously acted on the faith of the exemption of the new capital, and the foundation of that action must not be swept away, it being better that the law should be settled, though settled wrong, than that transactions made in good faith should be overturned in the endeavor to put the law right.

But the principle of *res judicata* is conclusive on the point that the new capital is protected by the exemption.

The new capital came in under the act of 1853, and the cases in the civil district court of New Orleans relied on to support the position of *res judicata* all involved the new capital or cash shares, the old shares being valueless. It was admitted on argument that the Bouny case involved the cash shares, and also that it was only these shares that were taxable, the other shares, as is admitted and as the evidence also shows (Rec. No. 108, p. 212), being without "any pecuniary value." And it is conceded that the new capital or cash shares only were involved in the cases in the civil district court, numbered, respectively, 12429 (Rec. No. 483, pp. 60–63), 19144 (*ib.*, pp. 63–66) and 20541 (*ib.*,

pp. 66–68), which are in evidence to support the bank's contention of *res judicata*. Reference is made to the record in No. 483 for the transcripts in those cases, because they are more conveniently presented there than in the record in No. 108.

The learned counsel for the City of New Orleans prudently abstained in his oral discussion from making any reference to the point raised by the bank and pervading both cases, namely, that every question urged against the bank has been foreclosed, not once but repeatedly, as a thing adjudged.

When the learned counsel practically gives up this point in his brief, he surrenders the case. He does virtually give it up when he dismisses it with the remark that the decision of the judge of one Court cannot bind the judge of another Court, and that this Court in dealing with constitutional questions does not permit itself to be hampered by State decisions. This is certainly wide of the mark! Whoever laid down before that this Court or any other Court could divest a party of his vested right in a judgment to which he is a party? This high Court has no power to deprive a party of the protection of a prior judgment which has settled the matter before it for decision any more than it has to take arbitrarily A's property and give it to B.

What then does all the discussion come to on the other side, if what is covered by it is a thing adjudged? What difference does it make that the Bouny case and the cases that settle all the questions in the two cases at bar do not square with the learned counsel's brand-new idea, in the light of the principle that a matter once adjudged is con-

clusively presumed to have been correctly adjudged? *Res judicata pro veritate accipitur.*

But before dismissing this point I desire to call attention to a remarkable statement on page 24 of the Attorney General's brief in No. 108. He says:

"Your Honors will find the following endorsement on both of the judgments in question: 'No. 36308, Civil Dist. Court, P'h of Orleans, Filed July 19th, 1892,' signed Jas. D. Rankin, D'y Clerk. These endorsements mean that the Citizens' Bank in July, 1892, less than one month before complainant's bill was filed in this Court, applied to the Civil District [Court] for the Parish of Orleans for an injunction, which was then and there refused. Now, if these judgments have the force claimed for them, why did not the complainant seek its remedy in the State Court? Why was the injunction refused by that Court?"

I am authorized by my learned associate, Mr. Denis, to say that this statement is absolutely incorrect. True, the statement is not based upon anything in the record, but I prefer that it shall not pass unnoticed. It is to be regretted that I forgot to allude to the matter at the bar, and thus to furnish Mr. Denis an opportunity to contradict the statement in open court.

Some stress is laid on the fact that the bank has been paying taxes on its country property, but it has done so merely to buy its peace, the bank being advised by counsel that it was cheaper to do so, its president says, than be in a never-ending wrangle with the State in the courts. (Rec. No. 108, p. 218.)

There can be no doubt as to the jurisdiction of this Court in No. 483. The authorities constituted to carry out and

apply the revenue laws of the State have assessed for taxation real estate of the bank which represents a part of the bank's capital and the sense put on the law by those appointed to apply it *is the voice of the law itself*, and hence we have presented the case of a statute of the State of Louisiana which impairs the obligation of the bank's contract of exemption, and, consequently, a case clearly within the commission of this Court.

Respectfully submitted by

WM. A. MAURY,
Of Counsel, &c.